

Byron L. Stubbs
341 So main St
Suite 409 SLc UT
84111

AMENDED LEASE AGREEMENT

THIS AMENDED LEASE AGREEMENT, made and entered into on the 5th day of December, 1995, by and between LAZY "B" LAND AND CATTLE COMPANY, a Utah Partnership, JCB PRODUCE, INC., a Utah corporation, DOUGLAS D. BANGERTER, KENT D. BANGERTER, and KEVIN S. BANGERTER of the City of Bountiful, County of Davis, State of Utah, (herein referred to collectively as "Lessee"), and LEE JOHN PIERCE, DONALD PIERCE and KEITH PIERCE of the City of Evanston, County of Uinta, State of Wyoming (herein referred to collectively as "Lessor").

WHEREAS, Lessor and Lessee entered into a Lease Agreement dated the 5th day of May, 1993 relating to certain real property located in Uinta County, Wyoming and Summit County, Utah; and

WHEREAS, Lessor and Lessee desire to amend the Lease Agreement to provide additional terms thereto in order to resolve certain legal disputes which have arisen between the parties hereto, as evidenced by that certain lawsuit filed in the District Court of Uinta County, State of Wyoming, Styled as *Pierce, et al. v. Bangerter, et al.*, bearing the Civil No. 95-63.

In consideration of the mutual covenants contained in this Lease Agreement, the parties agree as follows:

1. **Description of the premises.** Upon the terms and conditions specified in this Lease Agreement, Lessor leases to Lessee, to be used for grazing and related purposes, the following described real property referred to as the spring, summer and fall range and being more particularly described as follows:

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ALAN SPRIGGS, SUMMIT COUNTY RECORDER
1995 DEC 05 14:10 PM FEE \$57.00 BY DMG
REQUEST: BYRON L. STUBBS

REAL PROPERTY

The North half of the Southeast Quarter (N1/2SE1/4); the Southwest Quarter of the Southwest Quarter (SW1/4SW1/4); the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Fifteen (15), Township Thirteen (13) North, Range One Hundred Nineteen (119) West of the Sixth Principal Meridian and the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of said Section 15, Township 13 North, Range 119 West of the Sixth Principal Meridian, excepting therefrom that Fractional part of said Northwest Quarter of the Southwest Quarter which lies West and North of what is generally known as the Hilliard Road -- said excepted tract being more particularly described as follows, to wit: Commencing at the Northwest Corner of the Southwest Quarter of said Section Fifteen (15) and running thence South along the West line of said Section Fifteen (15) One Thousand Three Hundred Twenty (1,320) feet; thence in a Northeasterly direction on a straight line across the Northwest Quarter of the Southwest Quarter of said Section fifteen (15) to a point on the North line of said Northwest Quarter of the Southwest Quarter of said Section 15 which is Four Hundred Ninety-four (494) feet East of the Northwest corner of the Southwest Quarter of said Section 15 and running thence West Four Hundred Ninety-four (494) feet along the North line of said Northwest corner of the Southwest Quarter of said Section 15 which is the place of beginning, together with all the water rights, water ditches and canal rights and rights of way appurtenant unto or used in connection with all the above-described land whether evidenced by shares of stock in an incorporated company or otherwise; also a right to the use of the Hilliard Flat East Fork Canal for the irrigation of the above-described land.

AND

The Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) and the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4), and the West Half of the Northwest Quarter (W1/2NW1/4), and the West Half of the Northwest Quarter (W1/2NW1/4) of Section Fourteen (14), in Township Thirteen (13) North of Range One Hundred Nineteen (119) West of the Sixty Principal Meridian, Wyoming, containing one hundred and sixty (160) acres, together with all water rights, water appropriations, ditch and canal rights, and rights of way appurtenant thereunto or used in connection therewith.

AND

All of the Northeast Quarter (NE1/4) of Section Fifteen (15), Township Thirteen (13) North, Range One Hundred Nineteen (119) West of the Sixth Principal Meridian.

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ALSO

A fractional part of the Northwest Quarter (NW1/4) of Section Fifteen (15), Township Thirteen (13) North, Range One Hundred Nineteen (119) West of the Sixth Principal Meridian, more particularly described as follows: Beginning at a point on the North line of said Section, which is Fourteen Hundred Forty-three (1443) feet East of the Northwest Corner of said Section, and running thence East, Eleven Hundred Ninety-seven (1197) feet to the Northeast corner of the Northwest Quarter (NE Cor NW1/4) of said Section; running thence South, Twenty-six Hundred Forty (2640) feet to the Southeast Corner of the Northwest Quarter (SE Cor NW1/4); and running thence West Twenty-one Hundred Forty-six (2146) feet; and running thence Northeasterly Twenty-seven Hundred Thirty (2730) feet, more or less, to the point of beginning; containing 101 acres more or less.

Together with all water, water rights, ditch and canal rights and rights of way appertaining thereunto or used in connection therewith.

AND

The following described tracts of land in Summit County, State of Utah:

T. 3 N. R. 10 E., Salt Lake Base and Meridian:

Section 35: All. Containing 640 acres.
Section 36: W1/2W1/2, containing 160 acres.

T. 2 N. R. 10 E. Salt Lake Base and Meridian:

Section 2: All, excepting therefrom part of the W1/2 of said Section 2 described as follows: Commencing at the S1/4 section corner of said section and running thence West 40 chains, thence North 80 chains more or less to the Northwest corner of Section 2; thence Southeasterly to the point of beginning, said excepted portion containing 160 acres more or less.

Section 11: Beginning at the North Quarter Section corner of Section 11, thence East 40 chains, thence South 40 chains, thence West 20 chains, thence North 20 chains, thence West 10 chains, thence Northwesterly 22 chains more or less to the point of beginning containing 110 acres.

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Together with all improvements, appurtenances, hereditaments, water, water rights, ditches, ditch rights, and all other things thereunto belonging or in anyway appertaining.

Subject, however, to all reservations, restrictions, easements and rights-of-way now of record affecting said lands above described.

PERSONAL PROPERTY

108 Shares, Upper Bear River & Mill Creek Water Users Association.

Hilliard East Fork Canal Co.:

26.98 shares (Class A)

31.04 shares (Class B)

23.04 shares (Class C)

2. **Term.** The term of this Lease Agreement shall be for ten (10) years beginning on the 6th day of May, 1993, and ending on the 5th day of May, 2003.

3. **Rent.** The total rent for the term shall be determined as follows:

(a) Lessee agrees to pay Lessor as follows: Fourteen dollars and fifty cents (\$14.50) per each AUM pair per month for each grazing season hereafter covered by this Lease Agreement.

(i) The parties further understand and agree that the Lessee shall pay the sum of fourteen dollars and fifty cents (\$14.50) per AUM per month for each bull placed on the property covered by this Lease Agreement during the term hereof.

(ii) Lessee further agrees to pay the sum of ten dollars (\$10.00) per AUM per month for each dry cow or heifer placed on said property by the Lessee during the term of this Lease Agreement.

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(b) It is estimated that the grazing season on the Utah land will last for approximately a three (3) to four (4)-month period and the Wyoming property will supplement such period for approximately two (2) additional months by including approximately a one (1)-month period of grazing on the Wyoming property in the spring prior to going onto the summer range in Utah, and approximately a one (1)-month period of grazing on the Wyoming property in the fall, after leaving the summer range in Utah at the end of the season. It is understood by and between the parties that the summer grazing season on the Utah property continues from about the first day of July through the end of October.

(i) The parties understand and agree that neither of them can predict or guarantee the length of any one grazing season covered hereby and said parties acknowledge that the dates set forth in paragraph 3(a) and (b) above are merely the best estimates of the parties based on past experience. The annual grazing season in any particular year may vary considerably from year to year. By reason thereof, the parties agree the weather during any grazing season shall determine the length of the grazing season each year.

(ii) Lessor agrees to feed, care, and be responsible for any and all of Lessee's livestock covered by this Lease Agreement in the event of inclement weather, whether the stock are on the Utah or the Wyoming range.

(iii) Lessee agrees to provide salt at Lessee's own cost and expense for its livestock on both the Utah and Wyoming ranges.

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(c) During the first one (1)-year period of the Lease Agreement, Lessee shall be entitled to run a minimum of 125 pair plus six (6) bulls on the property covered by this Lease Agreement and said Lessee agrees to pay rent in the amount of eleven thousand three hundred ninety-seven dollars (\$11,397.00) per annum (131 AUM x \$14.50 = \$1,899.50 per month x 6 months = \$11,397.00) per annum plus any dry cows pastured at the rate of ten dollars (\$10.00) per AUM per month. The payments required to be made during the last nine (9) years of said Lease Agreement shall be a minimum of thirteen thousand five hundred seventy-two dollars (\$13,572.00) for the season plus any dry cows pastured at the rate of ten dollars (\$10.00) per AUM per month (156 AUM x \$14.50 = \$2,662.00 per month x 6 months = \$13,572.00), and a maximum of fifteen thousand seven hundred forty-seven dollars (\$15,747.00) plus any dry cows pastured at the rate of ten dollars (\$10.00) per AUM per month (181 AUM x \$14.50 = \$2,624.50 per month x 6 months \$15,747.00).

(d) Lessor agrees to provide Lazy "B," as part of the Lease Agreement, with a cowboy as needed to care for the stock. Lessor further agrees to keep all fences on the property in good repair during said ten (10)-year Lease Agreement period. and to irrigate the property as necessary. The cowboy, the fence repair, and irrigation shall be furnished at the expense of Lessor. Lessor shall be entitled to all crops raised and/or harvested from the farm operation during said ten (10)-year Lease Agreement period.

(e) The parties agree that Lessor shall be entitled to remove timber from the property located in the state of Utah, Summit County, but the removal thereof shall not

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interfere with the lease operation on said property by Lessee, nor shall the removal of timber by Lessor impair the value of the ground for grazing purposes.

4. **Water rights.** Water for grazing operations obtained by Lessee under Lessor's water rights shall be used only on the demised premises and in the pursuit and performance of Lessee's operations and obligations under this Lease Agreement.

(a) No water shall be used upon or be exported to other lands without the prior, express, written consent of Lessor.

(b) Lessor assumes no responsibility to Lessee for any water shortage from the source or sources of water under Lessor's water rights, or from any source whatsoever; nor does Lessor warrant the quality or quantity of water obtained from any source or sources.

(c) Lessor shall pay all acquisition, operation and maintenance, repair, diversion and diversion costs and charges and/or water tolls connected with the use of water used on the grazing land for whatever purpose or purposes.

(d) Lessor shall also pay all taxes and assessments properly levied on the demised premises.

5. **Lessor/Lessee right of entry.** Lessor and Lessee reserve the right, during the term of this Lease Agreement, to enter upon the demised premises, at any time or times for the purpose of inspection, consultation with each other, making repairs or improvements, posting notices, and for all other lawful purposes whatsoever, including timber harvest as provided for herein.

6. **Liability Insurance.** Lessor agrees that during the term of this Lease Agreement, and all extensions of this Agreement, to cover said leased premises with liability insurance in the

minimum amount of one million dollars (\$1,000,000.00) and to name Lessee as a loss payee on said liability policy.

7. **Subletting.** Lessee may sublet the demised premises, or any part thereof, without Lessor's prior consent, provided, however, any sublessee shall be bound by the same terms and conditions of this Lease. It being understood, however, that Lessee may charge amounts in excess of the amount charged for the AUMs as provided for herein.

8. **Designation of Agents and Means of Entry to Demised Premises.** Don Pierce and Kent Bangerter are hereby designated agents of Lessor and Lessee, respectively, herein and all questions, complaints and requests for permission to enter the demised premises shall be handled by and through said agents, except the immediate Bangerter family may enter the leased premises without first obtaining permission to do so. No one, except the immediate Bangerter family, will be permitted to hunt on the property without written permission of Kent Bangerter or Don Pierce. The consenting agent will send all copies of the written hunting permission slips to the other agent. Key holders for access to the property shall be Don Pierce and Kent Bangerter. Keys may be loaned to others having permission to enter or use the land but must be returned to the lending agent from whom said keys were obtained, and no copies of keys shall be distributed to anyone except as herein provided. It is understood that the immediate Bangerter family, Lee Pierce and Keith Pierce may keep the keys issued to them but will not make duplicates for anyone except the immediate Bangerter family, Lee Pierce or Keith Pierce. For purposes of this paragraph, the immediate Bangerter family includes Douglas D. Bangerter, Kent D. Bangerter, and Kevin S. Bangerter.

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9. **Grant of Right of Purchase by Lessor or Lessee.** For the remaining term of this Amended Lease or any extension, renewal or renegotiation thereof with JCB Produce/Lazy "B" Partnership/Bangerter, in the event (1) Pierce defaults under a loan from Farm Credit and (2) proceedings for foreclosure of the loan are commenced (either judicially or by advertisement and sale), Pierce shall be obligated to offer to sell the real property and appurtenances subject to the Amended Lease to JCB Produce/Lazy "B" Partnership/Bangerter for the sum equal to \$422,000.00, less the amount of debt existing in favor of Farm Credit at the time of foreclosure and by having JCB Produce/Lazy "B" Partnership/Bangerter assume the loan or pay Farm Credit in full. This option or offer to sell will not impair the rights of the parties under the Right of First Refusal document in existence, a copy of which is annexed hereto, marked as Exhibit I, and by this reference made a part hereof.

10. **Waiver by Lessor of breach by Lessee.** The waiver by Lessor of a breach of any covenant or condition in this Lease Agreement shall not constitute a waiver of such covenant or condition, nor a waiver of a future breach of the same or any other covenant or condition of this Lease Agreement. The acceptance of rent by Lessor, with or without knowledge of a previous breach, shall not be deemed a waiver of a previous breach or breaches by Lessee of any covenant or condition contained in this Lease Agreement other than the one for which payment is so accepted.

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11. **Lessor's remedies on default by Lessee.** Lessee agrees that in the event it should be in default of the performance of any of the terms, covenants, or conditions of this Lease Agreement, or have otherwise breached this Lease Agreement, Lessor may, in addition to every remedy now or hereafter available at law or in equity, have the rights and remedies set forth in

this Lease Agreement, which shall be deemed cumulative and not exclusive of those available at law or in equity.

(a) Lessor shall have the right to reenter the demised premises without effecting thereby the termination of this Lease Agreement, by giving Lessee written lawful notice of such intention. Lessor, either before or after reentry, may notify Lessee, if Lessee can be located, that Lessor elects to terminate this Lease Agreement, or, that Lessor elects to relet the demised premises on Lessee's account under terms and conditions provided below. If Lessee cannot with reasonable diligence be located within thirty (30) days after abandonment of the demised premises, Lessor may make the election without notice to Lessee, or by such substituted notice as the law shall provide or allow.

(b) Lessor shall have the right to remove all property and persons from the premises; and the right to store in public warehouse at Lessee's expense all property so removed. At Lessor's election, Lessor shall terminate this Lease Agreement, or, without terminating it, relet the demised premises or any part of the demised premises upon such terms and conditions, and at such rental as to Lessor may seem advisable. The term of such reletting may be for a term beyond the term of this Lease Agreement.

(c) Upon such reletting, Lessor may elect: (1) to hold Lessee immediately liable for, (a) the amount by which the rent reserved in this Lease Agreement for the period of reletting, not exceeding the term of this Lease Agreement, exceeds the amount agreed to by the new Lessee, or Lessees, to be paid as rent for the relet premises, and (b) all indebtedness due under this Lease Agreement; or, (2) to apply the periodic rents received

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by Lessor (a) to any indebtedness, other than rent, due from Lessee to Lessor; (b) second, to the payment of rent due under this Lease Agreement as it shall become due and payable.

(d) If the rent payments due from the reletting of the demised premises are not paid at the time they become due and payable by the tenant holding under the reletting, or are, for any reason, insufficient to pay the rent due under this Lease Agreement, Lessee shall immediately pay to Lessor the total deficiency ascertained to be due under the provisions of (1) above; or, pay to Lessor the deficiency for the period in which it occurs, under the provisions of (2) above.

12. **Binding effect.** The terms, covenants, and conditions contained in this Lease Agreement shall, subject to the provisions with respect to assignment and subletting, apply to and bind the heirs, successors, executors, administrators, and assigns of the parties. All such parties, including Lessor and Lessee, shall be jointly and severally liable under the Lease Agreement's terms, covenants, and conditions.

13. **Time of essence.** It is specifically declared that time is of the essence of this Lease Agreement.

14. **Governing law.** It is agreed that this Lease Agreement shall be governed by, construed, and enforced in accordance with the laws of the state of Utah.

15. **Attorney fees.** In the event that any action is filed in reaction to this Lease Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney fees.

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16. **Entire agreement.** This Lease Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party except to the extent incorporated in this Lease Agreement.

17. **Modification of agreement.** Any modification of this Lease Agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

18. **Counterpart.** This Lease Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

19. **Paragraph headings.** The titles to the paragraphs of this Lease Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Lease Agreement.

In witness whereof, each party to this Lease Agreement has caused it to be executed on the date indicated hereinabove.

ROCKY POINT RANCH

Lee J. Pierce
LEE JOHN PIERCE, Partner

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Donald Pierce
DONALD PIERCE, Partner

Keith A. Pierce
KEITH PIERCE, Partner

Lee J. Pierce
LEE JOHN PIERCE, Individually

Donald Pierce
DONALD PIERCE, Individually

Keith A. Pierce
KEITH PIERCE, Individually

JCB PRODUCE, INC.

Kent D. Bangert
BY: KENT D. BANGERTER, President

Shauna B. Maas
BY: SHAUNA MAAS, Secretary
12-2-96

LAZY "B" LAND AND CATTLE COMPANY

Kent D. Bangert
KENT D. BANGERTER, Partner

Kevin S. Bangert
KEVIN S. BANGERTER, Partner

Kent D. Bangert
KENT D. BANGERTER, Individually

Kevin S. Bangert
KEVIN S. BANGERTER, Individually

Douglas D. Bangert
DOUGLAS D. BANGERTER, Individually

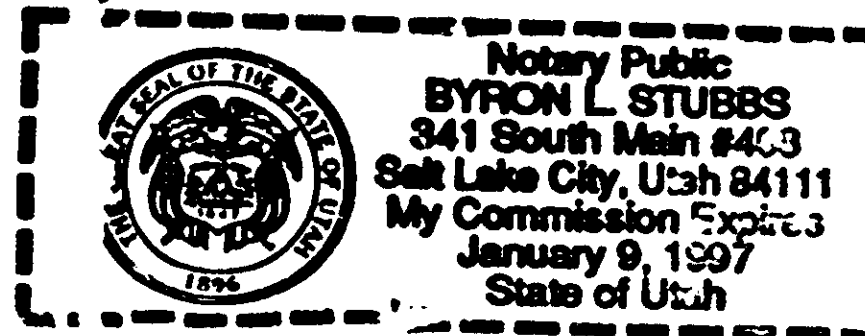
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STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 5th day of December, 1995, before me, a Notary Public, personally appeared before me Kent D. Bangerter, Shauna B. Maas, Kevin S. Bangerter, and Douglas D. Bangerter, the signers of the foregoing Amended Lease Agreement, who being by me duly sworn did say that they executed the foregoing instrument, individually and for Lazy "B" Land and Cattle Company and JCB Produce, Inc., and acknowledged that the same was voluntarily executed by them.

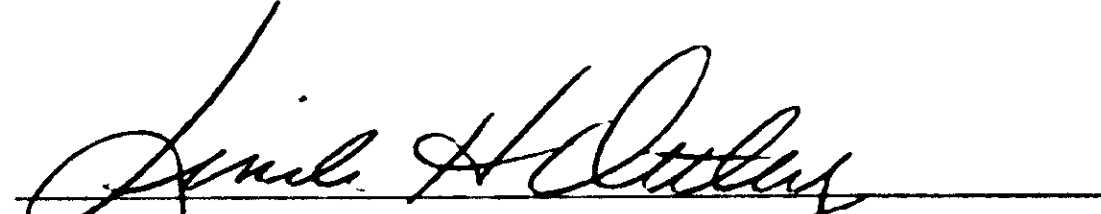

NOTARY PUBLIC

My commission expires: 1-9-97

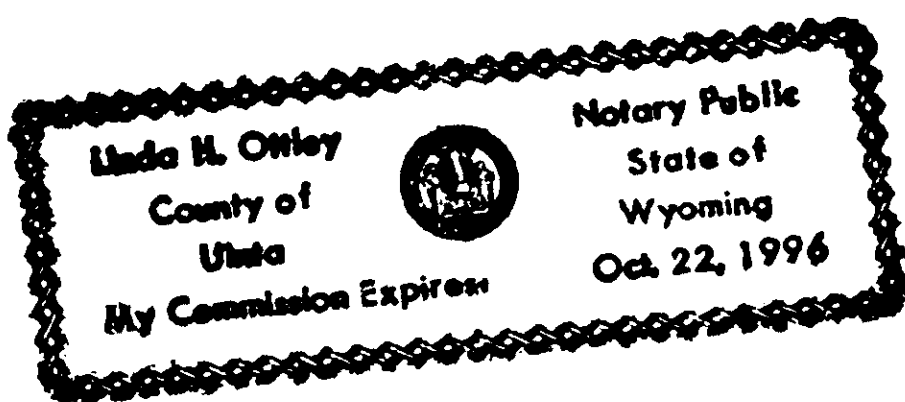


STATE OF Wyoming)
 :SS
COUNTY OF Monte)

On this 5th day of December, 1995, before me, a Notary Public, personally appeared Lee John Pierce, Donald Pierce and Keith Pierce, to me known to be the person(s) named in and who executed the foregoing instrument, individually and for Rocky Point Ranch, and acknowledged that the same was voluntarily executed by them.


NOTARY PUBLIC

My commission expires: 10-22-96



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EXHIBIT 1

FIRST RIGHT OF REFUSAL

This First Right of Refusal is an addendum to that certain **Land Sale Contract** dated 5 May, 1993, between the parties hereto. Said First Right of Refusal shall be attached to said contract as Exhibit "1". The Land Sale Contract being attached to the original Agreement between the parties also dated 5 May, 1993, and entitled Agreement to Finance and Resale and marked as Exhibit "B" thereto. Upon execution by the parties hereto, this addendum shall become a part of the aforescribed original documents.

This First Right of Refusal is entered into on the 11th day of August, 1993, between JCB PRODUCE, of Bountiful City, Davis County, Utah, referred to herein as Lessee and DONALD PIERCE, LEE J. PIERCE and KEITH PIERCE, of Uinta County, Wyoming, referred to Lessors.

RECITALS

The parties recite and declare:

A. Lessor is the equitable owner of certain real property located in Summit County, Utah and Uinta County, Wyoming. Lessee holds the legal title to said properties subject to a Land Sale Contract dated 5 May, 1993, between Lessee as grantors and Lessors as grantees.

B. It has been mutually agreed upon by the Lessor and the Lessee that as part of the consideration for the Lessee entering into the Land Sale Contract of 5 May, 1993, that Lessee would be granted the first right to repurchase all of the land or any portion thereof covered by said original Land Sale Contract in the event that the Lessors elect hereafter to sale the same.

In consideration of the mutual covenants contained in this instrument and in the original Land Sale Agreement, the parties agree as follows:

**SECTION ONE
RIGHT OF FIRST REFUSAL**

Lessee shall have and is hereby granted by Lessors the first right to purchase all or any portion of the real property covered by that certain Land Sale Agreement dated 5 May, 1993, by and between the parties hereto of which this Agreement is made an integral part and attached thereto as Exhibit "1".

**SECTION TWO
DURATION OF OPTION**

The first right to purchase all or any portion of said property covered by said Land Sale Agreement between the parties dated 5 May, 1993, shall continue throughout the entire term of the Lease Agreement between the parties. Said Lease Agreement between the parties being attached to the original Agreement entitled Agreement to Finance and Resale dated 5 May, 1993, as Exhibit "C". This Agreement shall also become an integral part of said Lease Agreement and attached thereto and marked as Exhibit "1" to said Exhibit "C".

**SECTION THREE
BINDING EFFECT**

Lessors agree that the provisions of this agreement shall be binding upon all successors and assigns in interest to the real property described above.

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**SECTION FOUR
GOVERNING LAW**

It is agreed that this agreement shall be governed by, construed and enforced in accordance with the laws of the State of Utah as to the property located in Utah and the laws of the State of Wyoming as to that property located in said state.

**SECTION FIVE
ENTIRE AGREEMENT**

This agreement together with the exhibits attached to the original Agreement to Finance and Resale dated 5 May, 1993, said exhibits being marked as Exhibits "A", "B" and "C" shall constitute the entire agreement between the parties.

**SECTION SIX
MODIFICATION OF AGREEMENT**

Any further modifications of this agreement or said original Agreement to Finance and Resale together with the exhibits attached thereto, shall be binding only if evidenced in writing signed by all the parties or their authorized agents and/or representatives.

**SECTION SEVEN
ADDITIONAL DOCUMENTS**

The parties agree to execute whatever papers and documents necessary to effectuate the terms of this agreement.


**SECTION NINE
PERFORMANCE TIME**


In the event that the Lessors desire to sell the property at any time during the period of time covered by the Lease between the parties, then and in that event, they will first offer

the same to the Lessee prior to offering the same to any other prospective buyers. The Lessee shall have ninety (90) days after said offer of sale is presented to them by the Lessors to accept or reject the same. In the event the Lessee accepts said offer of sale made by the Lessors, said Lessee shall have an additional sixty (60) day period from and after the date of acceptance to comply with the terms and conditions of the sale as offered by the Lessors and accepted by the Lessee.

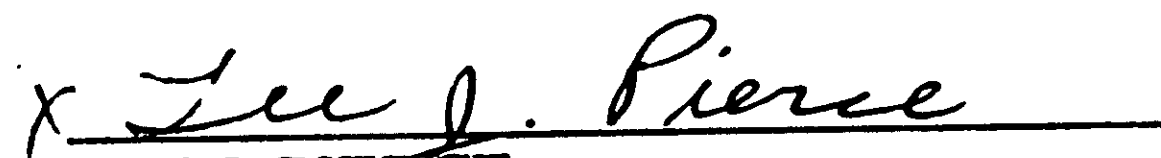
DATED this 7 day of October, 1973.

JCB PRODUCE


DOUGLAS D. BANGARTER
President


KENT D. BANGARTER
Secretary


DONALD PIERCE


LEE J. PIERCE


KEITH PIERCE

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