

Grazing Lease

Terms

ORIGINAL

Date: *January 1, 2011*

Landlord: *Fredericksburg Eagles Crest Homeowners Assoc. Inc.*

Landlord's Address: *3521 N. Ridge Waco, TX. 76710*

Tenant: *Arthur Jung*

Tenant's Address:

Premises: SURFACE ONLY of approximately [number] acres of land, situated in [county] County, Texas, as described in Exhibit [exhibit number/letter].

Base Rent (monthly): *50.00*

Term (months): *12 months*

Commencement Date: *January 1, 2011*

Termination Date: *December 31, 2011*

Security Deposit: *NONE*

Use: Solely for grazing [specify]. *sheep, goats, or cattle*

Amount of Liability Insurance *NONE*

Death/bodily injury: *NONE*

Property:

Definitions

"Rent" means Base Rent plus any other sums of money due Landlord by Tenant.

"Landlord" means Landlord and its agents, employees, invitees, licensees, or visitors.

"Tenant" means Tenant and its agents, employees, invitees, licensees, or visitors.

Clauses and Covenants

A. Tenant agrees to—

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date, subject to Landlord's right to permit farming, hunting, or fishing as provided below.
2. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for Tenant's intended Use.
3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the Premises.
4. Pay monthly, in advance, on the first day of the month, the Base Rent to Landlord at Landlord's Address.
5. Pay, as additional Rent, all other amounts due under this lease.
6. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day of the month in which it is due.
7. Pay for all labor, fuel, and utility services used by Tenant.
8. Pay all taxes on Tenant's personal property located on the Premises.
9. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.
10. Repair, replace, and maintain any part of the Premises used by Tenant that Landlord is not obligated to repair, replace, or maintain, normal wear excepted.
11. Repair or replace any damage to the Premises caused by Tenant.
12. Submit in writing to Landlord any request for repairs, replacement, or maintenance that are the obligation of Landlord.
13. Maintain public liability insurance for the Premises, naming Landlord as an additional insured, in the amounts stated in the lease.
14. Maintain insurance on Tenant's personal property.
15. Deliver certificates of insurance to Landlord before the Commencement Date and thereafter when requested.
16. Indemnify, defend, and hold Landlord harmless from any loss, attorney's fees, court and other costs, or claims arising out of Tenant's use of the Premises.

17. Deliver to Landlord a financing statement perfecting the security interest.
18. Vacate the Premises on termination of this lease.
19. Use the highest standards of animal husbandry in grazing the Premises.
20. Keep all gates on the Premises closed and locked, ingress to and egress from the Premises being at those places designated by Landlord.

B. Tenant agrees not to—

1. Use the Premises for any purpose other than that stated in the lease.
2. Create or allow a nuisance or permit any waste of the Premises.
3. Change Landlord's lock system.
4. Alter the Premises.
5. Allow a lien to be placed on the Premises.
6. Assign this lease or sublease any portion of the Premises without Landlord's written consent.
7. Graze more than [number] head of [specify] on the Premises.
8. Hunt or fish the Premises or allow anyone else to do so.
9. Litter or leave trash or debris on the Premises.

C. Landlord agrees to—

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the Premises.
3. Return the Security Deposit to Tenant, less itemized deductions, if any, within thirty days after the termination of this lease.

D. Landlord agrees not to—

1. Allow any use of the Premises inconsistent with Tenant's permitted Use as long as Tenant is not in default.

2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the following:

1. *Alterations.* Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at termination of the lease and at Tenant's cost, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.
2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.
3. *Release of Claims/Subrogation.* Landlord and Tenant release each other from any claim, by subrogation or otherwise, for any damage to the Premises or Tenant's personal property by reason of fire or the elements, regardless of cause, including negligence of Landlord or Tenant. This release applies only to the extent that it is permitted by law, the damage is covered by insurance proceeds, and the release does not adversely affect any insurance coverage.
4. *Notice to Insurance Companies.* Landlord and Tenant will notify the issuing insurance companies of the release set forth in the preceding paragraph and will have the insurance policies endorsed, if necessary, to prevent invalidation of the insurance coverage.
5. *Condemnation/Substantial or Partial Taking*
 - a. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.
 - b. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.
 - c. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.
6. *Landlord's Lien.* Tenant grants to Landlord a security interest in the collateral to secure payment and performance by Tenant of all obligations and payments due from Tenant under this lease. The collateral will include all of Tenant's crops, livestock, and personal property located or to be located on the Premises, and all products, proceeds, offspring, increase, governmental payments, insurance proceeds, documents of title, and warehouse receipts relating to such property.
This lease is a security agreement under both article 9 of the Texas Business and Commerce Code and the federal Food Security Act of 1985. Tenant agrees to furnish to Landlord a list of the names and addresses of any buyer, commission merchant, or selling agent to or through whom Tenant may sell the collateral. Tenant agrees to notify Landlord of the identity of any

buyer, commission merchant, selling agent, or warehouse to or with whom Tenant intends to sell or store the collateral within seven days before any sale or storage of the collateral.

7. *Default by Landlord/Events.* A default by Landlord is the failure to comply with any provision of this lease that is not cured within thirty days after written notice.
8. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and terminate this lease.
9. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent; (b) abandoning or vacating a substantial portion of the Premises; and (c) failing to comply within ten days after written notice with any provision of this lease other than the events of default set forth in (a) and (b) above.
10. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the Rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be using the Premises for grazing, until the default is cured, without being liable for damages.
11. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.
12. *Security Deposit.* If Tenant defaults, Landlord may use the Security Deposit to pay arrears of Rent, to repair any damage or injury, or to pay any expense or liability incurred by Landlord as a result of the default.
13. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.
14. *Alternative Dispute Resolution.* Landlord and Tenant agree to mediate in good faith before filing a suit for damages.
15. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
16. *Venue.* Venue is in the county in which the Premises are located.
17. *Entire Agreement.* This lease, together with the attached exhibits and riders, is the entire

agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to any expressly mentioned exhibits and riders not incorporated in writing in this lease.

18. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

19. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

20. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

21. *Mineral Interests.* This lease is subordinate to any present or future oil, gas, or other mineral exploration agreements and leases. Landlord will not be liable to Tenant for any damages for actions attributable to those agreements and will receive all consideration paid therefor.

22. *Landlord's Use.* Landlord retains the right to permit third parties to use the Premises for hunting, fishing, and other uses that do not interfere with Tenant's grazing rights.

Bryan Bensch Partner
[Name of landlord]

A. J. [Signature]
[Name of tenant]