

LEASE AGREEMENT

This lease agreement is entered into between **Montana State University, Agricultural Experiment Station** ["Lessor"] and **Fred Itcaina** ["Lessee"].

Section 1. Description of Premises. Lessor leases to the Lessee, to be used for agricultural and related purposes, the property known as the Joseph M. Hartmann Memorial Ranch, together with all grazing rights appurtenant thereto, in Township 24 North, Range 26 E.M.M., Township 23 North, Range 26 E.M.M. and Township 24 North, range 25 E.M.M., located in Phillips County, Montana.

Section 2. Term. The term of this lease agreement shall be for five (5) years and four (4) months, beginning on September 1, 2009 through December 31, 2014.

Section 3. Rent. UPDATE This lease agreement will be a cash lease. Lessee agrees to pay rent in the amount of Fourteen Thousand Five Hundred Eighty-One Dollars (\$14,581.00) per year to Lessor. Lessee will pay Seven Thousand Two Hundred Ninety Dollars and Fifty Cents (\$7,290.50) on or before May 1, and Seven Thousand Two Hundred Ninety Dollars and Fifty Cents (\$7,290.50) on or before October 31 each year.

Section 4. Permissible Uses.

A. The premises are leased to the Lessee for agricultural and related purposes. Lessee is solely responsible for all costs of operations and all costs associated with his residences on the premises, including utilities, taxes, sewer, telephone, etc. Lessor assumes no responsibility for operational and residential related expenses incurred by Lessee.

B. All agricultural and livestock operations shall be carried on and conducted in an efficient manner and in accordance with the best ranching practices and husbandry generally employed and practiced in the area.

C. The parties agree to comply with all required state and federal regulations in connection with the operation of this lease, the state lease and the Bureau of Land Management lease related to the operation of this lease.

D. Lessee shall not use, or allow others to use, the premises for any use other than those set forth in this lease agreement without the prior written consent of the Lessor.

Section 5. Waste. Lessee shall not commit any waste on, or damage to, the premises and will use due care to prevent others from doing so. Lessee shall also not operate a nuisance on the leased premises or use the premises for any unlawful purpose, or allow any other person to do so.

Section 6. Duties of Lessee to Repair. Lessee shall, with their own labor and expense, keep the leased premises, including buildings, fences, gates, water ditches, improvements, and the approaches to and the appurtenances of the ranch, in as good repair and condition as they may be put during the term of this lease agreement, reasonable wear and tear by the elements alone excepted. Lessor will provide materials for such repairs only of determined necessary and agreed to in writing prior to the repair.

Section 7. Alterations, Improvements and Additions. The parties acknowledge that the Lessee has made alterations and improvements to the property, including creating a road, drilling a well, putting in a sewer system, underground utilities and certain alterations to the barn.

The parties agree that upon termination of the lease, all improvements, with the exception of any mobile homes, will be donated to the Lessor and become its property. Lessee may not make any further improvements, additions to or alterations of any part of the leased property premises without the prior consent of the Lessor.

Section 8. Noxious Weeds. The Lessee will keep down, destroy and abate all noxious weeds and thistles and comply with the current laws of the State of Montana regarding the abatement of noxious weeds.

Section 9. Lessor's Right of Entry. Lessor reserves the right to enter upon the premises at reasonable times to inspect the premises, consult with the Lessee, post notices, or for any other lawful purpose. Such entry by Lessor shall not interfere with any regular operations of the Lessee.

Section 10. Liability of Lessor to Third Persons. Lessee agrees to hold Lessor harmless from any and all liability or claim for damages arising out of injury to persons and property on the premises; or the approaches to the premises; or resulting from livestock or other animals straying from the premises, or resulting from water or flood damage caused by improper, inadequate, or defective canals or ditches, or the negligent operation, maintenance or use of such canals or ditches; or resulting from the farming and/or ranching operations of the Lessee on the premises.

Section 11. No Partnership/Joint Venture. This lease will not constitute, create or in any way be interpreted as a joint venture, partnership or formal business relationship of any kind.

Section 12. No Assignment or Subletting. No right or interest of Lessee in and to this lease agreement is assignable. No part of the premises may be sublet to any person other than the Lessee. Lessor shall have the right to immediately terminate and declare this lease agreement void and of no further force effect upon any attempted assignment or sub lease.

Lessee may not authorize others to use, occupy or reside on the premises without the advance written consent of the Lessor. The parties agree that Lessee may enter into Livestock Management Agreements and/or Pasturage Agreements for the control and management of livestock owned by third parties and may care for the livestock on the premises without the express permission of MSU.

Section 13. Termination. Lessee may terminate this agreement upon providing forty five (45) day's written notice to Lessor. The failure of Lessee to comply with each and every term and condition of this lease agreement will constitute a breach of this lease agreement. Lessee will have sixty (60) days after receipt of written notice from Lessor to correct any breach specified in the notice.

In the event of Lessee's death, the lease shall terminate. In such event, the estate of Lessee and any remaining occupants of the property shall have 120 days to vacate the premises, in accordance with the requirements upon termination in Section 15 below.

Section 14. Waiver by Lessor of Breach. The waiver by Lessor of a breach of any term or condition in this lease agreement shall not constitute a waiver of any rights under this agreement. The acceptance of rent by Lessor shall never be deemed a waiver of any previous or future breach or breaches of any condition of this lease agreement.

Section 15. Lessor's Remedies on Default by Lessees. If Lessee fails to correct any breach within 60 days notice of the breach, Lessor may retake the property and terminate the lease. Upon termination, Lessee will vacate the premises, remove his/her personal property and leave the premises clean and in as good condition as at the commencement of occupancy, reasonable wear and tear excepted. On termination, Lessor may recover from Lessee all damages proximately resulting from the breach, including the cost of recovering the premises and the balance of the rent payments remaining due and unpaid under this lease agreement. However, nothing contained in this agreement shall be construed as an exclusive remedy, and Lessor specifically retains any other right or remedy that it might otherwise have.

Section 16. Damages. At the conclusion of the lease agreement, Lessee shall pay Lessor for any damages to the property, ordinary wear and depreciation excepted.

Section 17. Arbitration.

A. All claims, disputes and other matters in question, arising out of, or relating to, this agreement, which cannot be satisfactorily resolved between the parties, shall be decided by binding arbitration under the provisions of the Montana Uniform Arbitration Act, Title 27, Chapter 5, MCA.

B. The arbitration shall be conducted before a single arbitrator selected by the parties. If the parties have not selected an arbitrator within ten (10) days of written demand for arbitration, the arbitrator shall be selected by the American Arbitration Association.

C. Notice of the demand for arbitration shall be filed in writing with the other party. The demand shall be made within a reasonable time after the claim, dispute, or other matter arises. The demand for arbitration shall not be made after the time allowed for the institution of a lawsuit under the applicable statute of limitations.

D. The duty to arbitrate shall survive the cancellation or termination of this agreement.

Section 18. Attorney Fees. If any action is filed or alternative dispute resolution proceeding is agreed to in relation to this lease agreement, the unsuccessful party in the action shall be required to pay the successful party's attorney fees.

Section 19. *Entire Agreement.* This lease agreement is 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.

Section 20. *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 the parties.

Section 21. *Notices.* All notices or other communications concerning this lease agreement shall be made to the following people:

For Lessor:

Jeff Jacobsen
Director
Montana Agricultural Experiment Station
Montana State University
202 Linfield Hall
Bozeman, MT 59717-2860
(406) 994-3681

For Lessee:

Fred Itcaina
HC 63, Box 5055
Dodson, MT 59524

The parties executed this agreement on the dates set forth below. This agreement is not effective unless approved by the Montana Board of Regents of Higher Education.

LESSEE:

By: _____
Ferdinand Itcaina Date

LESSOR:

By: _____
Jeff Jacobsen Date
Director of the Montana Agricultural Experiment Station