



Structuring Grazing Leases

Including Ranch Resource Goals to Improve Landowner – Lessee Relationships

Pete Bauman | SDSU Extension Range Field Specialist

Department of Natural Resource Management
College of Agriculture, Food & Environmental Sciences

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Note: *Information for this publication was derived from range management professionals and several private livestock operations utilizing alternative fee structures and lease language to meet overall ranch resource management goals in South Dakota. While examples of financial calculations and potential lease terms are provided throughout the publication and in Appendix A, SDSU Extension does not provide legal advice and encourages individuals to seek sound legal counsel.*

Resource management goals for farms, ranches, and recreational land can vary greatly depending on the interest of the landowner or his/her understanding of the landscape or ecological system in which the land lies. For example, the resource management goals for a ranch in the arid intermountain western rangelands has seemingly little in common with a recreational hunting property in the north woods. However, both can likely utilize livestock under an appropriately structured lease agreement to meet at least some of their resource goals, even if those goals are dramatically different.

For optimum success over time, livestock grazing leases should reflect the overall resource management goals of the ranch or farm operation. However, including resource management goals in the language of a grazing lease is not intuitive, and limited resources exist to guide landowners toward lease language that is consistent with their overall ranch goals. This publication is designed to assist operating landowners, non-operating landowners (NOLOs), and lessees or occupying tenants in the process of structuring or restructuring a grazing lease to go beyond basic parameters of simple grazing periods and financial compensation.

Reflecting goals in grazing leases can be challenging but is necessary to ensure a partnership wherein

both the landowner and the lessee are clearly communicating on accomplishments and measures of short and long term success. Whereas traditional leases may imply certain objectives, they often fail to capture intent beyond the basics of grazing dates, price, fence maintenance or animal health monitoring/treatment. Rarely do traditional leases reflect a 'relationship' between the landowner and the lessee that strives to achieve mutual goals.

When considering a lease from an expanded goals-driven approach, the list of parameters that could or should be addressed within the lease can increase dramatically over a simple lease, and thus can become cumbersome if not clearly organized and articulated. Central to a successful goals-oriented lease is the need for a partnership between the landlord and the lessee that is reflected in mutual understanding of the stated goal(s). Here we focus on identifying goals and structuring a lease that captures resource management goals while retaining the important aspects of clarity, brevity, and minimal subjectivity in assessing progress or accomplishments toward achieving those goals. For more information on whole-ranch and drought planning, see sidebar

The first consideration is that of setting overall goals. The list of potential assessment questions is limitless, but a few basic or starter questions might include

assessing current state and desired future condition. Some examples are:

Assessment of current state

1. What does my pasture(s) look like today?
2. Are my pastures healthy, diverse, and resilient, or are they in a less than desirable condition?
3. What are my indicators of poor health, if present? Are there areas of invasive species, erosion, poor forage production, poor water, or other concerns?
4. How am I (or others) currently managing the grazing program? Are livestock often moved or rotated? If not, are there barriers to livestock movements such as poor fences, inadequate water sources, lack of labor, poor pasture design, unwilling renter, or lack of understanding?
5. What drives the current condition or current management decisions? Do I have an undervalued or overpriced lease? Do I have a good or poor relationship with my lessee? Are there other drivers or factors I should consider?

Assessment of desired future condition

1. What do I want my pasture to look like? Do I want to see diversity in plants, animals, vegetation structure, or other visual indicators?
2. How far from, or close to, the desired future state is my land?
3. How can I move closer to the desired future state? Can I achieve my goals with either more or less livestock or through different livestock, improved rotations or timing, a new or improved lessee relationship, etc.?
4. Do my goals for the future pasture or grazing program align well with other goals for my whole operation, including other demands on my time that might include employment, family, volunteerism, hobbies, or other interests?
5. Do my goals align with those of my current lessee?

It is beyond the scope or intent of this publication to capture all potential factors that can determine the appropriate lease structure. Perhaps the most critical component to goals-based leases is to develop a

Whole Ranch and Drought Planning – Getting Started

There are several public, non-profit, and private organizations that promote both drought planning and whole ranch (or holistic) ranch planning. Seek out local ranchers, range professionals, or staff persons within educational organizations that can connect you with mentors.

In South Dakota, contact SDSU Extension Range staff or any of the following organizations:

South Dakota Grassland Coalition

<https://www.sdgrass.org>

South Dakota Soil Health Coalition

<https://sdsoilhealthcoalition.org/>

South Dakota NRCS

<https://www.nrcs.usda.gov/wps/portal/nrcs/main/sd/contact/>

Nationally, the **National Drought Mitigation Center** has excellent tools for drought planning on the ranch

<https://drought.unl.edu/ranchplan/Overview.aspx>

and organizations such as the **National Grazing Lands Coalition** can provide resources to connect people with grazing coalitions in their respective states <https://www.grazinglands.org/>

lease that is based on selling the forage, not acres. Specifically, charging the lessee on a per-unit, per-time basis rather than the traditional per acre fee typically utilized in traditional grazing leases. A per-unit, per-time basis often is structured as per animal, per pair, or per pounds charged over a unit of time such as a day or a month. Various forms of this type of lease have been in place for decades, with the most familiar being leases based on the Animal Unit Month (or AUM) system. However, the AUM system tends to be misunderstood and often inconsistently applied by many landowners (see sidebar, Understanding AUMs).

An alternative lease structure that continues to gain in popularity bases fees on a unit of livestock over a unit of time. This is similar to the AUM system described above, but is adjusted using more understandable measures and terms, such as a per-cow/calf pair

per-day basis; which is simply another approach to charging a fee for grass consumed instead of a fee based on access to a certain number of acres. Charging a lessee a set amount of dollars per-pair per-day is a good example.

Often, landowners or lessees converting to this system rely on local per-acre grazing rates as a comparative basis to determine an overall starting value. A hypothetical 100-acre pasture with a conventional lease format serves as a good platform to explain this concept. We will assume a single paddock pasture with no cross fences and no livestock rotation.

If current rent on a 100-acre pasture is \$70/acre, then the total annual rent is \$7,000. For \$7,000, the lessee is generally allowed to stock the pasture at his/her discretion. We will assume the lessee chooses to graze 25 cow/calf pairs from May 10th until the end of September (about 140 days).

If both parties are content with this arrangement, then converting the agreement to a per-pair per-day lease is very straightforward, and the math can be calculated backwards. $\$7,000 \div 140 \text{ days} \div 25 \text{ pairs} = \$2.00/\text{pair/day}$. However, if both parties are content, there would be little need for change from the per acre system!

In reality, this hypothetical lease probably serves neither the landowner, the lessee, the cattle, nor the pasture well due to heavy stocking, season long grazing, and no rotation. It could be safely assumed the pasture may be overstocked and/or poorly utilized resulting in poor health of the range, the cattle, the finances, and likely the relationship of the involved parties. We'll break down these points in the following paragraphs based on some general assumptions that reflect current trends in grazing management.

As stated, our example pasture is likely overstocked and in poor condition. How do we know? Based on current grazing trends, we can assume the average weight of these cows to be about 1,400 to 1,500 lbs., and they are likely calving in late winter or very early spring. These cows need to consume about 3% of their body weight each day, for a daily intake requirement of 45 lbs. of forage per day. This herd of 25 pairs therefore needs 1,125 lbs. of forage per day, or 157,000 lbs. for the entire 140 day grazing

Understanding AUMs

An AUM lease simply reflects a set fee charged for the 'use' of the forage needed to feed a 'standard' 1,000 lbs. animal for a period of thirty days.

Because the forage need of a 1,000 lbs. animal should be consistent, so should the fee charged for an AUM, regardless of location. See the (Society for Range Management Rangeland Assessment and Monitoring Committee report [2017] for a full description of the history of the AUM system https://www.fs.fed.us/rm/pubs_journals/2017/rmrs_2017_smith_1001.pdf).

However, the reality is that per AUM fees are extremely variable and in many cases adjustments are made to the relative value of an AUM based on overall forage condition, production, accessibility, water resources, or other management challenges. Generally, where livestock need more room to meet their forage intake needs (such as western rangelands), the cost of an AUM is less than in those places where forage demand is easier to meet (eastern pastures). Also, because most of today's cows are over 1,000 lbs. and often have calves older than six months by the end of the growing season, adjustments to the Animal Unit Equivalent (AUE) are necessary to ensure proper grazing. Overall, these factors can lead to misunderstanding of the core concept of the AUM system, and thus it is often overlooked in private leases in favor of relatively poorly structured, but easier to understand, per-acre rental contracts.

season. On average, our poorly managed pasture likely only produces about 2,500 lbs. of forage per acre at best. So, this 100-acre pasture would produce about 250,000 lbs. of forage annually. Good grazing management in this single unit pasture would dictate that we target about 25 – 30% of the forage base to be consumed, so we should only be taking about 62,500 to 75,000 lbs. of the forage, not the 157,000 lbs. we are currently taking. Our 25 pairs are consuming almost 63% of the forage available, leaving our pasture in poor condition and limiting any chance for reasonable vegetation recovery.

What is also of concern in this real-life scenario is that our landowner has likely retained little or no control over the number or type of livestock in the lease,

and because our landowner is charging a relatively high price for the per-acre annual lease, the lessee is probably trying to squeeze in as many pairs and remove as much grass as possible; a typical reaction driven by having no guarantee of retaining the lease in the future. It can be assumed that fences are pressured and in need of annual repairs, creep feed is probably deemed necessary by the lessee, water sources are impacted or eroded, and weed pressure may be significant. These assumptions lead to expenses, or 'input' costs, that can be avoided under improved management but are often viewed as 'basic' or 'necessary' expenses when pastures are under poor management (Photo 1).

So while the landowner enjoys the annual rental income, what is out of balance is the cumulative consequences of poor management decisions, all of which lead to increased annual input costs for either the landowner, the lessee, or both. In other words, both may be following 'false profits'. These fallacies can create angst in the relationship of the two parties. Further, livestock performance and condition might be poor or propped up with artificial inputs. The

photo below generally depicts the condition of this hypothetical pasture. If your pastures look like this throughout the grazing season, a review of your ranch resource goals, and a change to your grazing system and or lease structure may be necessary (photos 2-3).

A fair and equitable lease that captures goals and reflects true management intentions demands an accounting of the critical factors that drive healthy grazing management and must factor in such things as livestock, grazing timing, intensity, and duration, and the landowner/lessee relationship if it is to lead toward attainment of mutual goals.

Establishing a base per-day value can be challenging given these factors. If we use our hypothetical pasture above, we could start with the goal of retaining the \$2.00/pair daily fee and make adjustments from there. Livestock type, number, size, forage demand, calf age, in and out dates, drought adjustments, and landowner/lessee services all factor into a fair and equitable fee structure and provide both parties 'leverage' for ensuring short-term monetary goals do not override long-term resource management goals.



Photo 1: Erosion and poor water quality resulting from inappropriately planned grazing. In this scenario, the landowner and lessee may consider adjustments to the grazing plan and lease structure that may include one or more of the following actions: reduce stocking rate, adjust timing, physically limit livestock access to the water and hills via fence, pump water to external tank, and reseed/rest erosion areas. If these actions involve monetary expense and labor, the landowner and lessee can address those responsibilities in an annual or multi-year lease. It is important that both understand the overall short and long term goals for resource management at the site.



Photo 2-3: Severe annual overgrazing in the form of overstocked, season-long grazed pastures with no rotation can result in long-term damage to pasture infrastructure like fence and water. In the photos above, notice the heavily pressured fence line leaning away from the pasture, the lack of vegetative cover going into the winter, exposed soil, and overall poor condition of the cow.

Livestock size and forage demand are critically important to consider. Fees should reflect the 'demand' the individual animal (or cow/calf pair) places on the system. Simply stated, a 1,500 lbs. cow with a large calf consumes more forage resources than does 1,000 lbs. cow with a similar aged calf. Understanding this fact is the basis of the per-day lease which reflects the sale and purchase of the grass (forage), instead of the sale and purchase of the space (acres). Therefore, generally speaking, larger animals should demand a higher per-day fee based on their weight and known forage consumption needs (usually 3% of body weight for cows and 2.5% for yearling stockers or replacement heifers). Below we offer guidance in assessing a change to your grazing program based on assessing the animals and the forage.

Steps to Developing a Strong Lease and Landowner/Lessee Relationship

Step 1: Determining current forage production of the pasture. There are several options for determining this number, including physically clipping and weighing vegetation or utilizing one of several on-line resources such as the Web Soil Survey. For most producers, working with a trusted professional or experienced local grazer familiar with forage assessments is best. In our 100 acer pasture example, we'll use 2,500 lbs. per acre of production (or 250,000 lbs. for the whole pasture).

Step 2: Determining how much of the forage will be made available 'for sale' through livestock consumption. Generally, the take $\frac{1}{2}$, leave $\frac{1}{2}$ rule is good guidance. However, taking $\frac{1}{2}$ does not mean consuming $\frac{1}{2}$, rather it suggests that 25% is consumed, 25% is made unavailable through healthy animal impact (trampling, defecation, and urination or consumed by insects or other wildlife). This leaves the remainder 50% or 'half' of the plant(s) to serve as a regenerative leaf and root reserve for regrowth which is vitally necessary to the individual plant and the plant community as a whole. In our example we will target 25% of our forage 'for sale', or about 62,500 lbs. This number does not change based on the type of livestock we choose (see Step 3).

Step 3: Matching the livestock and timing of grazing. Here we have options. We are only intending to sell 62,500 lbs. of forage, but how? If we stock

1,000 lbs. replacement heifers, each individual will need about 25 lbs. of forage per day (2.5% of body weight). So, that means we get a total of 2,500 grazing days to sell for this size animal (62,500 lbs. \div 25 lbs. per day = 2,500 animal days). If we are grazing for 140 day season, that means we can stock about 18 heifers per day for the season (2,500 animal days \div 140 days = 18 animals). If we choose to only graze for a 90 days season, we could accommodate 28 heifers, and so on.

If we choose to work with a cow/calf producer with 1,200 lbs. cows with calves, those cows require about 3% of their body weight in forage per day, or about 36 lbs. of forage per day. Here we get 1,736 total grazing days (62,500 \div 36 lbs. per day per cow = 1,736). A 140 day season would allow for 13 pairs. If the cows are larger and weigh 1,500 lbs., they need about 45 lbs. of forage per day, and thus we'd be stocking about 10 pairs for 140 days (62,500 lbs. \div 45 lbs. per day = 1,389 animal days \div 140 days = 10 animals).

Step 4: Making informed decisions. Achieving goals can be accomplished by adjusting animal type, size, and grazing period as shown in Step 3. However, we can charge a grazing fee based on total consumption of the resource per day. A reasonable rate in today's market is roughly \$1.50 - \$1.75 per 1,000 lbs. of livestock per day (dependent on several factors).

If we use the example above, we simply have 18 heifers conveniently weighing 1,000 lbs. each, or 18,000 lbs. This equates to about \$3,780 (18,000 lbs. of livestock \div 1,000 lbs. = 18 1,000 lbs. units. 18 X \$1.50 per day = \$27 per day. \$27 per day X 140 days = \$3,780). If we use our 1,500 lbs. cows at the same rate, our rental income equals about \$3,150 (10 pairs X 1,500 lbs. per pair = 15,000 lbs. 15,000 lbs. \div 1,000 lbs. = 15 1,000 lbs. units. 15 X \$1.50 per day = \$22.50 per day X 140 days = \$3,150) (income difference shown in examples is due to rounding of rough numbers and is only meant to illustrate how this method works.).

It is critically important to understand why our income for this pasture is essentially only half of that derived from the previous per-acre rental example. Recall that in the per-acre example, we were overstocked and had poor health of our system. When appropriately

stocked, even though income is less, we are potentially saving significant dollars by avoiding annual expenses such as fence maintenance, creep feed, weed control, and animal health over time as systems health improves. Also, if we now consider rotating the livestock with temporary fence or some other method, and once some healthy recovery and increased production is achieved after the first few seasons, we may be able to increase our harvest rate up to 35 to 40% of the forage, thus increasing potential income.

Step 5: Making adjustments for services. We've used a \$1.50 per 1,000 lbs. per day as our example above. Others might simplify their starting fee at something like \$2.25 per 1,200 lbs. cow/calf pair or \$2.50 per 1,400 lbs. pair per day. Regardless of the exact number, it is important to agree on this base value. Adjustments to that base value can then be made based on services each party contributes to the operation. Services expected by either party are usually clearly explained, mutually agreed upon, and should be reflected in the lease and fee structure. Such services might include responsibility for fence maintenance, invasive species control, herd checks, livestock rotation, water management, or animal health or other husbandry services. Services provided by the landowner may demand a higher fee while those provided by lessee may result in fee reductions. Landowners or custom grazers that provide full services for the grazing season are able to charge significantly more per day than those who provide no services or are absentee or non-operating landowners. Exact rates are variable and must be negotiated accordingly.

Step 6: Seeking the right cooperator. Beyond what has already been discussed, landowners who adopt this system will have specific goals in mind. Increasing soil health, water infiltration, plant diversity, forage production, and wildlife habitat may be of highest importance, as might reductions in chemical use for insect health, weed control, or other goals. Some may even dis-allow certain traditional livestock management techniques such as systemic pour-ons or injectable products for parasite control in favor of techniques that ensure systems health and resiliency. Often landowners expect lessees to avoid creating areas of high impact and will require lessees to frequently move mineral or creep feeders, portable water stations, portable corrals, oilers, or

other mobile infrastructure. Conversely, these same items can be used to attract livestock to areas where more intense grazing or hoof impact may be desired, such as grazing a weedy or brushy area at the correct time. Regardless, it is incumbent on the landowner that lease parameters clearly and accurately reflect all expectations of the lessee and that those expectations are clearly conveyed and understood verbally and in the written lease.

Step 7: Informed decision making. Selling grass with management goals is different than selling access to acres and requires that both parties understand the big, holistic picture. Most landowners aren't accustomed to measuring their forage production, and most cattle producers aren't accustomed to weighing their livestock coming onto pasture or off of pasture. However, acquiring forage production and herd weights is not difficult, and doing so ensures accuracy for the landowner and lessee, even though it may be somewhat inconvenient at first. Conversely, weighing livestock coming off of pasture benefits the lessee, as it is now very simple to assess animal performance. If calf weights and cow body condition scores meet or exceed expectations, the lessee will be pleased with the agreement. If not, adjustments to either the daily payment rate or the stocking rate may be in order. In either case, an improved platform to negotiate for mutual benefits is now available via measurable outcomes.

Also, a per-unit per-day structure also avoids vagueness or contention if destocking is necessary due to drought or other factors. On any given day, it is simple to calculate the total accrued fee thus eliminating the guesswork often associated with adjusting traditional per-acre leases. Finally, this type of lease allows for growth in partnerships and often if the first year goes well, landowners are more open to entertaining a multi-year lease agreement, giving the lessee additional incentive to embrace and profit from the long-term management goals of the landlord.

The table on the next page gives a brief review of the benefits of utilizing a per day lease system over that of an AUM or per acre system.

Table 1. Grazing Lease Type Comparisons

| Issues | Lease Type | | | Explanation |
|--|------------|----------|--|---|
| | AUM | Per Acre | Per Head/Per Day or per lbs per day | |
| Ease of understanding | poor | good | good | Dollars per acre or dollars per head or pair are easily understood by most |
| Ease of objectively recalculating fees for temporary or permanent increases or decreases in livestock units during the lease period. | fair | poor | good | Adjustments may be necessary to take advantage of additional forage or for reduced forage or early termination due to drought or other factors. A per day fee structure leaves no ambiguity regarding how much is owed to the landowner on any given day. |
| Ease of 'valuing' individual lessee or landowner services in relation to adjusting final price | fair | fair | good | These can be listed individually and valued accordingly. It is easiest to list them as offsets to a per day fee lease. |
| Mutual concern about health of the forage base | fair | poor | good | Here both parties have shared responsibility and mutual financial interest in ensuring forage remains adequate and healthy. |

Appendix A: Categorical Lease Language Options (derived from actual leases).

Below we provide categorical statement options to consider when creating a custom grazing lease. These statements are taken directly from current leases provided by landowners who have found success in this system. All parameters may not apply to all lease situations. All can be customized for individual needs. SDSU Extension does not provide legal advice and recommends leases be reviewed by appropriate parties.

Definitions / terms statements:

- **Landlord, lessor, permitter, manager, pasture provider, etc.** Refers to person(s) who owns the land or is otherwise responsible for decisions related to the property.
- **Lessee, tenant, renter, owner, permittee, etc.** Refers to person(s) who own or are otherwise responsible for the livestock.
- **Animal Unit (AU):** a 1,000 lbs. animal consuming approximately 2.5% of its body weight per day.
- **Animal Unit Month (AUM):** forage consumed by 1 animal unit in a 30 day period.
- **Pair:** a combination of a cow/calf unit, the weight of which generally varies from about 1,200 to 1,500 lbs. (Note: to account for the increase forage consumption of large cows with larger and older calves through the length of the growing season, an average of 3% of body weight for this class of livestock is often used in stocking calculations).

Lease Template Resources

For more information, guidance, or examples of a variety of agriculture lease templates, calculations, and other information, visit the following: www.aglease101.org

or <https://nationalaglawcenter.org/wp-content/uploads/assets/articles/Ag-Leasing-Handbook-SRMEC>

General agreement statements:

- The following agreement is hereby entered into by _____ (landowner), and _____ (lessee), on _____ (date) for the grazing season.
- The permit is entered into this ____ day of _____, 20____, between _____ (lessee) , Address; hereafter known as “the Lessee”, and _____ Landowner) , Address; hereafter known as “the Landowner”.
- The _____ (landowner), hereby grants the right, as a grazing permit to the lessee, to occupy and use for grazing purposes only, the following described property:

Dates, time period, on/off statements

- The provisions of this agreement shall be in effect for ____ month(s), commencing on or about the ____ day of _____, 20____.
- This grazing permit will terminate on _____ (date), and in no way does the permit extend, or imply, any permission beyond that date.
- The term of this lease shall be _____ years from _____ (day/year) to _____ (day/year). The grazing period commences on _____ (day/month) and ends no later than _____ (day/month) of each year.
- This lease is not subject to automatic renewal
- The beginning of the term will be about the first of May, but _____ (landowner) will notify the owner 1-2 weeks prior to the turn-out date.
- _____ (Landowner) will notify the owner two weeks prior to the end of the term. It must be recognized that the end of the term could come at any time if forced by drought or overstocking.

Property legal description statements:

- "The pasture system" is _____ acres of grasslands located in _____ Township _____ County, _____ (State) and includes all of Section _____, Township _____ Range _____, _____ County, _____ (State). Less cropland, or other.
- Pasture contains approximately _____ acres of pasture land with approximately _____ grazeable acres. No tillable acres are included.
- Legal description of pasture location, consisting of approximately _____ acres situated in _____ County, (State). The (State) Premise ID is: _____.
- See attached maps that identify pasture areas leased.

Goal, mission, or intentions statements (note: including this gives the landowner the opportunity to provide the 'big picture' and convey key points and expectations that will help shape the relationship with the lessee. However, very specific expectations should be addressed in the Terms section of the lease).

- The _____ (landowner) seeks to manage our pasture resources toward _____ (state goal) and will do so at our sole discretion.
- _____ (Landowner) will determine when the pasture is ready for grazing in the spring or the beginning of the "Term", and when the grazing resource is depleted to the extent that it must be vacated by the lessee at the end of the "Term".
- _____ (Landowner) intends to manage the grazing so as to improve the pasture and prevent damage to the pasture system.
- Because _____ (landowner desires to improve range condition through targeted grazing of certain exotic species and other objectives, we require _____ [state goals and requirements].
- The land described will be used in a manner that is consistent with sound range management.

Harvest / use statements

- Overall production for the pasture described in this lease is approximately _____ lbs. per acre.
- Lessee will be allowed to harvest approximately _____ % and/or _____ lbs. (per day, per month, or full season), for a total of _____ lbs.
- _____ (number of head or pairs) of _____ (type) weighing an average of _____ (lbs.) will graze from _____ (date) to _____ (date) for _____ (total days) equaling _____ (grazing days).
- Stocking rate will be _____ beef cows without calves at side weighing _____ lbs. or less, on arrival, for a _____ month period and will be the established stocking rate. The stocking rate schedule established for each pasture subdivision will be followed as set forth in a grazing plan.
- Maximum number of grazing cattle shall not exceed _____ Animal Unit Months (AUMs). This stocking rate shall be accomplished in through the stocking of _____ cow/calf pairs weighing less than _____ lbs. for a period not to exceed a _____ month grazing season (_____ day/month to _____ day/month).
- _____ cow/calf pairs weighing _____ lbs. x \$ _____ per day x _____ days
- OR _____ cow/calf pairs not to exceed _____ lbs. x \$ _____ per day X _____ days
- _____ (AUMs, AUs, pairs, yearlings, etc.) are to be utilized _____ (when and where). Penalty may be assessed for late arrival.

- No single pasture area maybe subject to being grazed twice in the same year without the express written consent of Landowner.

Fee statements

- The fee shall be \$_____ per head per month for each cow for each of the month in the permit period.
- The lessee agrees to pay \$_____ per 1,000 pound unit per day based upon the initial weight of the animals.
- Cattle are to be weighed on the truck on a certified scale in _____ (city & state). The total monthly charge is to be paid 30 days in advance throughout the grazing agreement.
- A rate of \$_____ per grazing day for a total of \$_____ for the season will be paid to the landowner by the lessee at _____ (day/month)
- The grazing fee will be calculated as follows: _____ cows X _____ months X \$_____ = \$_____. Payment for the first 1/2 of the grazing season will be due and payable the first day of grazing. Payment of the last 1/2 will be due and payable prior to the removal of the livestock at the end of the grazing season.
- If the lessee decides to remove livestock prior to the end of the grazing permit,
 - o full payment for the entire permit period will be due and payable
 - o OR full payment will be adjusted based on daily rate

Right of entry statements

- The landowner reserves the right for himself, his agents, his employees, or his assigns to enter the land at any time.
- Both parties, and agents or employees thereof, shall have the right to enter the pasture at any time for any legitimate purpose.
- Landowner reserves the right to enter the property at any time for any purposes whatsoever, including but not limited to grazing assessments, property and infrastructure maintenance, alternative management practices, and consultation with lessee. Landowner retains these right to convey these rights to guests, clients, contractors, and others at the sole discretion of the landlord.
- Landlord agrees to ensure all guests, clients, contractors, and others adhere to common courtesies to the Tenant. Tenant shall not be held liable for the actions or omissions of guests, clients, contractors, or others given entry permission by the Landlord.
- Gates shall be closed upon entering and leaving the premises.

Partnerships, subleasing, property, and other use statements

- No partnership intended. It is particularly understood and agreed that this permit shall not be deemed to be nor intended to give rise to a partnership relation.
- Transfer of property. If the landowner should sell or otherwise transfer title of the property, he will do so subject to the provisions of this permit.
- _____ (Lessee) is / is not allowed to sublease or sub-rent any part of the land or livestock contract without consent of _____ (landowner).
- The landowner does / does not convey to the permittee the right to assign the grazing permit to any person or persons whomsoever, or to use the land for any other purpose. (State intended other uses or purposes here): _____.

- Lessee may / may not engage in any government or state programs with / without written consent of the landowner.
- All other business transactions regarding optional enterprises between the Landlord and Tenant shall be addressed under separate agreement.
- Retention of other rights statements
- Lessee shall graze the premises in such a manner as to allow landowner / lessee to participate in any governmental programs.
- Any and all payments from any source including but not limited to the United States Government, the State of _____, or any other governmental body shall be paid to landowner / lessee.
- Lessee shall use and occupy the premises through the entire term of this lease only for the purposes herein specified and for no other purposes in the manner now intended and shall not assign this lease or sublet the premises or any part thereof whether by voluntary act, operation of law, or otherwise.
- Lessee is /is not required to be the owner of the livestock brought onto the leased premises.
- Lessee is solely responsible for all livestock brought onto the leased premises and all terms and conditions of this lease apply to all livestock brought onto the premises by lessee or lessee's agents.
- The landowner retains the right to engage in any ecological or economic management activities so long as those activities do not hinder the forage available to the lessee. Such management actions may include but are not limited to: fire, tree removal, seed harvest, multi-species grazing for weed control, and other non-grazing management actions.
- Landowner retains control of all other land use enterprises regardless of whether the landlord chooses to exercise these rights, including but not limited to: recreational use, hunting, seed harvest, pollinator contracts, research, seed harvest, etc.

General services by party statements

- Landowner is responsible for all real estate taxes on the leased premises.
- _____ (Landowner) shall provide adequate grazing forage, water and fencing for. The grazing and water will be adequate to provide a nutritional level that will support the livestock for their intended production purpose.
- _____ (Landowner / Lessee) will determine when herd will be moved to fresh pastures.
- The pasture supplements shall be supplied by _____ (Landowner / Lessee) and made available to livestock by _____ (landowner / lessee).
- _____ (Landowner/lessee) agrees to supply materials and _____
- _____ (Landowner / Lessee) is responsible for fence maintenance.
- _____ (Landowner / Lessee) agrees to help, if needed, with maintenance of existing fences, as well as installation of new fences as is able.
- Lessee is responsible for:
 - o To deliver and to remove animals on agreed upon date.
 - o To pay all trucking fees associated with this pasture agreement.
 - o Not to contract pasture livestock known to be unhealthy. Any animal appearing to be diseased or in an

unhealthy condition may be refused by the pasture provider.

- o Ensure positive means of animal identification either by double tagging, branding, or by some means of permanent identification.
 - o Necessary veterinary costs and associated labor costs will be paid by the animal owner.
 - o Purchase and deliver to the ranch any salt and mineral, or other supplements.
 - o Assist with loading and unloading of cattle.
 - o Animal owner is responsible for animal mortality, liability or theft.
 - o Pour-ons, injectables, oral, or other pesticides/parasite control are / are not allowed _____ months prior to or during grazing period.
 - o Assist in returning stray animals to pasture.
- Landowner is responsible for:
 - o Providing a perimeter fence satisfactory for holding livestock at the start of the grazing season.
 - o Providing initial water supply sources.
 - o Providing all fence materials.
 - o Providing a grazing plan as needed.
 - o Notifying lessee of any observed livestock problems.
 - o Providing basic fly control for the herd.
 - Landowner and Lessee will jointly agree to address:
 - o Adjustment of stocking numbers during the season.
 - o Payment adjustment due to acts of God or death loss.
 - o Repair fence as needed during the grazing season.
 - o Adjustments of scheduled moves in the planned grazing system.
 - o Livestock monitoring as appropriate.
 - o Distribution of salt & mineral provided by the permittee.
 - o Number of bulls and length of breeding period.
 - o Livestock numbers and base permit fee if the average cow weight, on arrival, exceeds _____ pounds per cow.
 - o Another option is to include a checklist of duties for each party that can be updated or modified annually within the lease, such as the following example.

| Duties | Landlord | Tenant |
|--|----------|--------|
| Inspect fences not less than once per month | | X |
| Furnish materials for repair of fences | X | |
| Supervise supply of water to livestock | | X |
| Furnish labor for repair of water system | X | |
| Provide materials for repair of water system | X | |
| Furnish salt and mineral | | X |
| Count livestock not less than once per month | | X |
| Return stray animals to pasture | X | X |
| Call veterinarian in case of emergency | X | X |
| Pay veterinary expenses | | X |
| Provide loading and unloading facilities | | X |
| Furnish supplementary feed, if needed | | X |
| Notify other party of shortage in count | | X |
| Provide facilities for fly control | | X |
| Keep fly-control facilities in working order | | X |

Livestock health statements

- The livestock shall be delivered to _____ (landowner) in good health.
- _____ (Landowner) shall have the option of rejecting any livestock that does not appear to be in good health at the time of delivery.
- _____ (Landowner/Lessee) will provide herd surveillance (monitoring, rounding up escaped cattle, and reporting obvious health problems of the livestock to the other party.
- _____ (Landowner/Lessee) shall regularly inspect the livestock for symptoms of disease and sickness and shall obtain veterinary services, care and supplies for the livestock as may be required by the normal livestock management practices of the area.
- _____ (Landowner/Lessee) shall consult with the other party concerning major problems with injuries or disease.
- A veterinarian will be consulted at the request of _____ (landowner/lessee) or if deemed necessary by _____ (landowner/lessee).
- The charges for veterinary services will be based on the costs incurred by _____ (landowner/lessee) and reasonable fees for service provided by _____ (landowner/lessee).
- Agreement does not impose additional liability upon _____ (landowner) for loss to lessee's livestock other than through the fault of _____ (landowner), and _____ (landowner) does not assume any additional risk for loss or injury to lessee's livestock
- _____ Lessee specifically acknowledges that _____ (landowner) is not a veterinarian and _____ (other terms).
- Lessee acknowledges ultimately responsible for the health of livestock.
- Landowner assumes no liability and will not pay any sum of money for any death of livestock.
- Salt, mineral, and nutritional supplements are / are not permitted.
- _____ (Landowner/Lessee) must ensure adequate relocation of the placement of salt, mineral, or supplements where these products or used so as to avoid the creation of heavily disturbed areas.
- Creep feeding is / is not permitted
- _____ (Landowner/Lessee) must ensure adequate relocation of the placement of creep feed where these products or used so as to avoid the creation of heavily disturbed areas.

Zero tolerance livestock treatment statements

- Use of systemic agents during the grazing period is not permitted.
- Lessee is solely responsible to ensure that ALL livestock owned or on the leased premises by authority of the lessee have not been treated with any topical, oral, intravenous, or intramuscular systemic parasite or insect control.

Limited tolerance livestock treatment statements

- Use of systemic agents during the grazing period is not permitted within _____ months prior to date of entry on to the leased premises.
- Lessee is solely responsible to ensure that ALL livestock owned or on the leased premises by authority of

the lessee have not been treated with any topical, oral, intravenous, or intramuscular systemic parasite or insect control within _____ months prior to date of entry on to the leased premises.

- _____ (Landowner) and _____ (lessee) agree to work together to eliminate chemical pesticide dependence, in order to (a) reduce the loss of beneficial insects such as dung beetles, and (b) minimize the development of chemical-resistant insects. _____ (Lessee) understands that making progress toward successfully and completely transitioning to chemical-free pest control is an important factor in attaining a long-term rental relationship with _____ (landowner).
- Lessee should make every effort to eliminate or reduce cattle exposure to systemic parasite or insect control prior to the grazing period. _____ (Landowner) and _____ (lessee) agree to work together to eliminate chemical pesticide dependence, in order to (a) reduce the loss of beneficial insects such as dung beetles, and (b) minimize the development of chemical-resistant insects.
- _____ (Lessee) understands that making progress toward successfully and completely transitioning to chemical-free pest control is an important factor in attaining a long-term rental relationship with _____ (landowner).
- Lessee should make every effort to eliminate or reduce cattle exposure to systemic parasite or insect control prior to the grazing season.

Livestock identification statements

- Incoming cattle will be clearly identified in a manner acceptable to _____ (landowner) and _____ (lessee).
- All livestock will be marked with the brand _____, located on _____, which is a legally registered brand with the (State) Brand Board.

Livestock management / escape statements

- Cattle that are "fence crawlers", such animals that repeatedly escape while the fence inholding the rest of the herd, may be rejected by _____ (landowner). _____ Lessee must remove such "fence crawlers" when notified by _____ (landowner)
- Livestock owner agrees not to pasture livestock that continue to break through fences. Should any animal be found outside that pasture on at least three occasions, the pasture owner may request its removal.

Invasive species control statements

- _____ (Landowner/Lessee) will control noxious weeds.
- The _____ (landowner/lessee) are mutually responsible for detection and information sharing with the other party regarding invasive species occurrences on the property.
- The Landowner retains exclusive rights to develop an Integrated Pest Management (IPM) plan.
- The _____ (landowner/lessee) may / may not take any actions to address noxious or invasive species without permission from or in consultation with the other party.
- The _____ (lessee) may / may not take any actions to address noxious or invasive species without permission from or in consultation with the Landowner.
- The _____ (landowner/lessee) is responsible for providing equipment and chemical resources.
- The _____ (landowner/lessee) is responsible for application and labor.
- Any chemical treatment program is subject to SD law pertaining to treatment and control of noxious weeds

and chemical applications per the current (State) Department of Agriculture rules. Provided that the lessee has complied with the IPM and has used the equipment and applied the chemical as directed by Landowner, the Landowner releases, discharges, holds Lessee harmless and shall indemnify Lessee from any and all claims of Landowner or third parties arising out of Lessee's acts with respect thereto.

- _____ (Landowner/Lessee) will provide materials and labor for control of noxious weeds.

Fence, water, and infrastructure responsibility statements

- _____ (Landowner/Lessee) shall keep all exterior and any interior fences in a proper state of repair and provide all labor necessary to do so.
- _____ (Landowner/Lessee) must ensure proper function of electric fences necessary to ensure livestock rotation is not compromised.
- _____ (Landowner/Lessee) shall provide all materials (posts, wires, braces, supplies) reasonably necessary for maintaining fences, except for minor repairs or repairs occasioned by the negligence of Lessee.
- _____ (Landowner/Lessee) will provide all equipment necessary for routine repairs and maintenance.
- _____ (Landowner/Lessee) will provide materials for repair and rebuilding of existing fences (such as posts, wire and other fencing material).
- _____ (Landowner/Lessee) will provide adequate source of water throughout the pasture season

Drought Clause

- Landowner reserves the right to implement drought clause when conditions indicated below arise on specified critical date:
- Average annual rainfall for central _____ County, South Dakota averages _____ inches per year by _____ (date).
- Roughly 70% of forage should be produced by this date
- Roughly 65% of average annual rainfall should be received between Oct 15 and July 15.
- If rainfall is 75% of the 65% stocking rate will be reduced 20 - 30% by weight.
- If rainfall is 50% of the 65% stocking rate will be reduced 40 - 50% by weight.
- Upon written agreement with the landowner, the lessee may adjust the distribution of the livestock size or grazing dates.

Adjustments, disagreement, arbitration, or termination of agreement statements

- Upon written agreement with the landowner, the lessee may adjust the distribution of total animal units via livestock size or grazing dates.
- Grazing shall not commence prior to _____ nor beyond _____ of each lease year, unless modified by written agreement with the landowner, at which time the total payment for the rental contract can be re-negotiated if desired by either party.
- Grazing shall not commence prior to _____ nor beyond _____ of each lease year, unless modified by written agreement with the landowner, at which time the total payment for the rental contract can be re-negotiated if desired by either party.
- _____ (Landowner) will either forego payment or will reimburse lessee in the event that landlord or

lessee requires removal of livestock at the agreed per day rate.

- Lessee agrees to pay landowner \$_____ (fee) for additional livestock upon mutual agreement by both parties.
- Lease may be terminated by _____ (landowner) if _____ (lessee) has:
 - o Used premises for purposes other than those specifically reflected in this contract
 - o Violated any provisions of this lease
 - o Failed to pay rent
 - o By mutual agreement
- Any disagreement between the _____ (landowner) and _____ (lessee) shall be referred to a board of three disinterested persons, one of whom shall be appointed by the landowner, one by the lessee, and the third by the two thus appointed. The decision of these three shall be considered binding by the parties to this lease. Any cost for such arbitration shall be shared equally by the two parties to this lease.
- The landowner's lien provided by law, cattle shall be the security for the grazing fees herein specified and for the faithful performance of the terms of the permit. If the lessee fails to pay the grazing fees due or fails to keep the agreements of this permit, all costs and attorney fees of the landowner in enforcing collection or performance shall be added to and become part of the obligations payable by the lessee hereunder.
- Landowner retains the right to require removal of animals if range condition is compromised and forage availability is reduced due to climatological or other factors.
- Landowner will, in good faith, consult with outside experts and will give the lessee a minimum of _____ days written notice for destocking.
- Lessee is entitled to a pro-rated adjustment for the unused grazing days according to parameters in lease.
- Lessee agrees to hold landowner harmless from any liability for damages to any person or property on or about the premises caused by the negligence of lessee, his employees, or agents.

Resources:

Dowell Lashmet, T., S. Ferrell, R. Rumley, and P. Goeringer. Ranchers' Agricultural Leasing Handbook: Grazing, Hunting, and Livestock Leases. <https://nationalaglawcenter.org/wp-content/uploads/assets/articles/Ag-Leasing-Handbook-SRMEC.pdf>

North Central Farm Management Extension Committee. Ag Lease 101. <https://aglease101.org/default.aspx>

Smith, Lamar. 2017. Does Size Matter? Animal Units and Animal Unit Months. The Society for Range Management Rangeland Assessment and Monitoring Committee. Rangelands. 39(1):17-19. https://www.fs.fed.us/rm/pubs_journals/2017/rmrs_2017_smith_l001.pdf