



Extension FactSheet

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Farm Rental Agreement Checklist

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It has been said that a “contract is no better than the word of those who sign it.” On the other hand, a written contract is still an essential business practice when leasing farm property. It forces detailed consideration, communication, and understanding by both parties. It serves as a handy reference in case details are forgotten or there is a death of the tenant or landlord.

The contract should encourage the most profitable, long-term operation of the farm and be beneficial for both parties. Are the returns proportional to the contributions both tenant and landlord make to the business? Will the lease prevent or discourage a tenant from operating the farm in the same way a well-financed owner-operator would run it? Are the best farming methods, conservation practices, and/or environmental practices utilized? What is the plan for needed improvements? Every contract or lease agreement will one day terminate; how is termination to be handled? What method(s) will be used to settle accounts?

The following checklist will assist tenants and landlords to consider components of a well designed lease agreement. It is advisable to have an attorney for one party prepare the lease, with a review by the attorney for the other party.

Parties to Lease and Description

- _____ Date the lease is entered into.
- _____ Names and addresses of the landlord and tenant.
- _____ Legal description of the leased property.
- _____ Signatures of the landlord and tenant.

General Terms

- _____ Time period of the lease, including beginning and ending dates.
- _____ Rental amount for cash lease; respective shares and contributions if a crop-share lease.
- _____ When and how rent will be paid and penalties for late payments.
- _____ Who will carry insurance on the property and the crop.
- _____ Statement that the landlord and tenant do not intend to create a partnership by entering into the agreement. Neither party will obligate the other for debts/liabilities or damages.
- _____ Conditions under which the tenant may or may not sub-lease the property.

- _____ If the land is enrolled in an agricultural district, providing protection against nuisance suits over farm operations and additional review if land is taken by eminent domain.

Termination

- _____ When and how the lease may be terminated and requirements for notice of termination.
- _____ Reimbursement provisions for crop nutrients, lime and/or completed fieldwork upon termination of the lease.
- _____ Acts of the tenant that would constitute default of the lease.
- _____ Tenant's rights if the property is transferred or condemned during the lease period.
- _____ Reimbursement provisions for a crop still in the ground when the lease is terminated.

Operation and Maintenance

- _____ Desired or prohibited farming practices, including types of chemicals that may not be used on the property.
- _____ Process of measuring and maintaining soil fertility and pH levels.
- _____ Which party is responsible for controlling noxious weeds.
- _____ Which party is responsible for maintaining fences.
- _____ Whether the tenant has the right to make improvements and be compensated for improvements.
- _____ Whether the tenant has the right to utilize improvements made by the landlord.
- _____ Provisions for soil-conservation practices.
- _____ Statement regarding the existing environmental status of the property and responsibility to minimize activities that may cause contamination.
- _____ Use of non-cropland, garden plots, trees, buildings, grain bins, pasture or other areas not rented for cropland.

Landlord Rights and Government Payment

- _____ Landlord's right to enter the property for specific purposes.
- _____ Landlord's right to a security interest in the crops or other provisions for ensuring payment.
- _____ Statement of which party will participate in federal farm programs, including responsibility for eligibility and receipt of payments.

_____ Nature of landlord participation in management. This may relate to issues regarding income and self-employment, taxes, social security payments, and estate planning.

Arbitration of Differences

- _____ Provision that any amendments must be in writing and signed by both parties.
- _____ Procedure for resolving disputes, including the applicable state statutes.

Crop-Share Provisions

- _____ General agreement, sharing of crops and tenant's contribution of machinery and labor. Each party should share returns in the same proportion as resources are contributed.
- _____ Sharing of operating expenses, generally variable expenses are shared in the same percentage as the crop share; if there are adjustments for no-till, custom application, liming or any new technologies adopted.
- _____ Storage and/or delivery of landlords share of crops.
- _____ Compensation upon termination of the lease.
- _____ What records are to be kept by whom and how will this information be shared.

Summary

If the term of the lease is for more than one year, it must be written to be legally enforceable. It also should be reviewed each year to ensure the terms are still desirable. Multiple year agreements require the following:

<i>Term</i>	<i>Legal Requirements</i>
Up to 1 year	Verbal can be enforceable
1 to 2 years	Must be in writing and signed by the parties.
2 to 3 years	Must be in writing, signed by the parties, notarized, and recorded in the county where the land is located.
3 years or more	Must be in writing, signed by the parties before two witnesses, notarized, and recorded in the county where the land is located.

This checklist does not include all possible considerations for flexible-cash rent provisions or a number of other items that tenants or landlords may want to include in the written agreement. Furthermore, each state has different statutes and local communities have unique customs. This fact sheet is not intended to take the place of sound legal advice required by any party entering into a contractual relationship.

Use the checklist as a guide to judge an agreement as to the components normally required or advisable to be included within a leasing contract.

References

- Moore, John E., *Test of a Good Farm Lease*, Ohio State Extension.
- Legal and Management Aspects of Ohio Farmland Leases*, Fact Sheet FR-0001-01, Ohio State University Extension, 2000.
- NCR75: *Fixed & Flexible Cash Rental Agreements*
- NCR105: *Crop Share Rental Arrangements*
- Producer Bulletins on Farm Leasing, National Center for Agricultural Law Research & Information, University of Arkansas.

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