



LEASING CHECKLIST

The following checklist of information is intended to provide information on many, but not all, issues confronting landowners and prospective tenants of their lands and buildings. The material is educational in nature and is not intended to provide legal or professional advice to its readers, or to act as a substitute for such advice. Anyone who desires to get such advice should seek it from independent professionals before acting on any information contained in this article. The information is designed to help readers understand the nature of the legal issues involved in deciding to rent or lease agricultural land and buildings. Please consult your family attorney for more information.

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BASIC COMPONENTS

Identify

- The date the lease is entered into
- Names and addresses of ALL parties
- Signatures of ALL parties
- Legal description of the property
- Distance and direction land is from nearest town, road names, rural route, popular farm name

General Terms

- Beginning and ending dates
- Date for renewals or extensions
- Terms of sub-leasing the property
- What is the impact if the property is sold?
- What is the impact on lease if destruction or damage occurs?
- What is the impact on lease if there is a default in performance?
- What will happen if there is death, bankruptcy, or insolvency?
- Statement that the landowner and tenant do not intend to create a partnership by entering into an agreement. Neither party will obligate the other for debts, liabilities, or damages.

Payment

- Rental amount for cash lease, respective shares and contributions for crop-share
- When and how will rent be paid?
- Will there be late payment penalties?



Termination

- When and how can it be terminated?
- What are the requirements for notice of termination?
- Will the tenant be reimbursed for crop still in the ground after the lease is terminated?
- Will the tenant be reimbursed for permanent structures that he installed or paid for after the lease is terminated?
- What would constitute a default of the lease by either party?
- What are the tenant's rights if property is transferred or condemned?

Land use and operation

- Are there limitations or restrictions for use of the property?
- Who makes the management decisions?
- Is hunting and fishing on the property allowed?
- What are the rights of use for buildings, machinery, or non-cropland?
- What is the process for inspections and examinations by landowner or third party?
- Are there desired or prohibited farming practices?
- What are the guidelines for use of chemicals?
- Is there a process of measuring and maintaining soil fertility and pH levels?
- Are there provisions for soil-conservation practices?

Liability and insurance coverage

- Who will accept liability for damage or injury to others?
- Who will pay for lawsuits?
- Who is responsible to have insurance on buildings or general liability?
- How much liability is needed?
- Does the tenant have insurance to protect himself and ultimately the landowner?



Responsibilities

- Who is responsible to control noxious weeds on the leased premises?
- Who is responsible to prepare and implement an erosion and sedimentation control plan?
- Who is responsible to prepare and implement a nutrient management plan?
- Who is responsible to maintain the leased property and when does the obligation arise?
- Who is responsible to decide if repairs are needed and who will make and pay for the repairs?
- Who is responsible to maintain fences and lime the soil?

Improvements

- What is the process to make improvements?
- Which improvements need approval and which can the tenant do voluntarily.
- Will the tenant recover the value of permanent improvements at the end of the lease?
- What is the depreciation of these improvements - amortization schedule?
- What repairs will be done?
- How much will be done?
- Who will furnish materials or funds towards the repairs?

Landowner Rights

- Right to enter the property for specific purposes.
- Right to a security interest in the crops or other provisions for ensuring payment.
- Description of the landowner's involvement in management: income and self-employment, taxes, Social Security payments, estate planning.



CONSERVATION COMPONENTS

Conservation Land Use

- What is the land's capability for crops or pasture?
- What conservation problems need to be addressed?
- What are the physical characteristics of the land? (topography, soil type, water resources)
- What type of infrastructure exists on the land? (barns, sheds, fencing, watering systems)
- Are improvements to the infrastructure needed to support a particular land use?
- How much will the improvements cost?
- What is the potential income from the proposed land use?
- Statement of existing environmental status and the responsibility to minimize activities that may cause contamination.

Implementation

- Statement of which party will participate in federal farm programs, including responsibility for eligibility and receipt of payments.
- Who contributes labor and money for implementing conservation practices?
- How do these contributions affect income for both tenant and landowner?
- Who will keep the records needed for participation in government conservation programs?
- How will expenses be shared for conservation implementation?

Permanent Conservation Practices

- The following may require special agreements between landowner and tenants for installation, maintenance, and sharing of cost and benefit. Depreciation rates should be set for the tenant to have a rate of recovery.
- Terraces, farm ponds, windbreaks, water control structures, reforestation, waterways, diversion ditches, pasture improvement, buffer zones, riparian strips

Land use provisions

- Tenant agrees to implement a conservation plan approved by the local NRCS, bringing the soil loss down to T (tolerable soil loss) or lower.
- Tenant agrees to implement a haying/ grazing plan approved by NRCS or landowner.
- Tenant agrees to practice crop rotation (sequence may be specified).
- Tenant agrees to test soil for residual nitrogen and phosphorus.
- Tenant will figure credits for manure and previous legume crops before applying additional nutrients.
- Tenant agrees to minimize use of herbicides by employing integrated weed strategies as the primary means of weed control.
- Tenant agrees to minimize use of insecticides by employing pest management strategies as primary means of pest control.
- Tenant agrees to maintain existing conservation structures (grassed waterways, contour strips, ponds, terraces).
- Fields shall be conservation tilled and planted on the contour where feasible or no-tilled on erodible ground.
- A cover crop shall be seeded on corn ground harvested for silage.
- A waterway removed by plowing, use of chemicals or other means shall be replaced at the tenant's expense.
- Tenant shall mow waterways as necessary for maintenance of soil conservation practices.
- There shall be sufficient ground cover at planting time to control erosion within soil loss limits set under the conservation plan.
- No fall tillage shall occur on a certain field.
- No-till shall be used on designated fields.
- Crop rotation shall be followed as agreed by the tenant and landowner on designated fields.
- Erosion shall be controlled in farm pond watersheds.



References

Excerpts were taken from the following sources. Please refer to the following sources for more information.

1. Becker, John C. Agricultural Leases. Pennsylvania State University, College of Agricultural Science. <http://extension.aers.psu.edu/LAW/AgriculturalLeases.pdf>.
2. Breece, Donald J. Farm Rental Agreement Checklist. Ohio State University Extension. <http://ohioline.osu.edu/fr-fact/0003.html>.
3. Elias, Debra. Maintaining Conservation Benefits on Leased Land. Minnesota Department of Agriculture. <http://www.mda.state.mn.us/crp/maintain.htm>.
4. Muller, Kenneth D. Lease Supplement for Use in Obtaining Conservation Practices and Controlling Soil Loss. Iowa State University. <http://www.extension.iastate.edu/Publications/FM1814.pdf>.
5. Parcell, Joe. Farm Lease Agreement. University of Missouri Extension. <http://muextension.missouri.edu/explore/agguides/agecon/g00426.htm>.
6. Smith, Frank E. The Basics of Farm Leasing. Virginia Tech University Extension. www.ext.vt.edu/news/periodicals/fmu/1996-08/aaec-803.html.

