

What Should You Include in Your Farm Lease?

1. A Lease should always be in WRITING. Even if it is not prepared by an attorney, it is important to write down a few points about the agreement between tenant and landlord and what each party expects from the agreement.
2. A statement to show that the agreement is a lease, entered into by the landlord and tenant whose names and addresses are clearly designated. State clearly that this is a LEASE and is not a partnership or other business relationship. The tenant and landlord should not conduct business related to this property as though they were partners.
3. A description of the property and permitted uses under the terms of the lease. A good starting place may be the deed book and page number of the last recorded deed. However, the deed description may need to be modified to reflect changes to the property and restrictions or exclusions of buildings, acreage, or resources on the deeded property.
4. The term or period of time that lease is to cover and the starting date.
5. Provisions for extension and termination of the lease. Provision for extension should specify date by which extension must be confirmed. Provision for termination should specify date and nature of written notice required for termination.
6. An agreement on the cash rent to be paid and/or division of the crops and the time(s) and place(s) such payments are to be made.
7. Describe rights of access and specify restrictions for both the landlord and tenant.
8. An annual plan for conservation practices and how expenses for conservation practices are to be shared. Examples of conservation practices can include application of lime and fertilizer, weed control, overseeding pastures and cropland, planting cover crops, and maintenance of waterways and filter strips.
9. Responsibilities of the tenant, such as for hauling out manure, maintaining roads or water gaps, and making repairs to improvements. These provisions should address who is responsible for providing labor, equipment, and all costs associated with these responsibilities.
10. Responsibilities of the landlord such as for furnishing building materials, fuel, other inputs, and repair or replacement of buildings destroyed by fire or other causes beyond the tenant's control. These provisions should address who is responsible for providing labor, equipment, and all costs associated with these responsibilities.
11. An agreement to compensate the tenant for unexhausted improvements in event the lease is terminated before full benefits are received.
12. Arbitration provisions if desired.
13. Restrictions imposed by the landlord, such as restraining the tenant from subletting all or a part of the farm or plowing up permanent pastures. Hunting rights and recreational use limitations should be addressed as well as use of woodland resources (firewood, timber, non-timber forest products).

14. Provisions for the acquisition of and payment for a liability insurance policy with specified limits of liability and with the landlord and tenant and named insured. The lease may set out responsibilities for maintenance of the property and allocation of liability (but landlord and tenant should always be coinsured).
15. Provisions for the acquisition of and payment for a hazard insurance policy with specified limits of liability and with the landlord and tenant and named insured. The lease should also specify what would happen in the case of a hazard (like fire) on the property that destroys all or some of the buildings.
16. Contingencies in the case of bankruptcy, incompetence, or death of the tenant.
17. Provisions regarding rights and responsibilities of the landlord and tenant growing out of their participation in government agriculture programs in the operation of the farm.
18. The signatures of the all parties (signature of the landlord's spouse may be important here). Signatures should be notarized in case the lease is to be recorded.

If the parties have a share-rent lease, you should include the following:

An annual farm plan, showing crops to be grown and livestock to be produced including the ownership of the livestock herd or flock.

An agreement stating the proportional share or payment of operating expenses and designation of the parties furnishing workstock, machinery and equipment, and tractor power.

Designation of management responsibilities, such as selling, buying, culling livestock and other day-to-day decisions as when to plant, cultivate, and harvest crops. Indicate whether these decisions are to be made solely by the tenant or jointly with the landlord.

Detailed description of records to be kept and party to keep the records.

General Guidelines and Recommendations:

“Fill-in-the-blank” lease forms can be very good guides for developing a lease and can greatly facilitate developing a lease and reduce legal costs associated with collecting information. However, they are no substitute for qualified legal counsel. Note: landlords and tenants can minimize attorney fees by thoroughly discussing and writing down the basic terms of the lease prior to meeting with an attorney.

Get qualified legal counsel to help formalize and finalize your lease agreement. The more important the lease is to you, the more important it is you have a written lease developed with legal counsel.

Both landlord and tenant need to discuss their leasing arrangement with their insurer. Both should be carrying some level of farm property and liability insurance.