



PROTECT *your* INVESTMENT

Improve Your Land with Long-Term Leases

Safeguarding your Land with a Documented Lease

According to the 2012 Census of Agriculture, the average farm in the US is worth over one million dollars. If you owned a home valued at one million dollars, would you rent it without stipulations, a written lease or requirements for how your investment should be taken care of? That wouldn't make much sense, yet these are the conditions under which many farms are rented.

Oral lease agreements remain popular in the US, however, there are several legal and practical reasons for having a written agreement. A written document forces detailed consideration, communication and understanding between both landowner and farmer. It also provides the foundation for a good relationship and a clear pathway for solving any problems that may arise.

Components of an agricultural lease

When negotiating an agricultural lease, both parties should discuss the following to make sure that each understands the working relationship and agrees the lease agreement will serve his or her needs:

- » Nature of the farming business
- » Best times and ways to contact each other when needed
- » Protocols to follow in case of emergencies—such as the cows getting out!
- » Potential hazards (e.g. electric fences, chemicals and animals)
- » Liability and other insurance requirements

- » How maintenance, repairs and improvements will be handled
- » What conservation practices are required or permitted

Consider offering a longer-term agreement and including sustainable agriculture practices within your lease. Bonnie Ivancic owns 144 acres of farmland in Lorain County, Ohio and prefers offering five-year leases to her tenant, allowing him to invest in improvements. For example, her tenant recently added tile drainage, a below-ground system that removes excess water, improving yields and reducing potential for compaction. Subsurface drainage is a long-term investment, with substantial up-front costs which returns benefits spread out over many years.

Your tenant will more likely invest where benefits can be captured during their tenure on your land, and for many conservation practices that extends past one year. If you intend to incorporate conservation and sustainable agriculture practices into your lease agreement, consider the challenges your tenant may face, recognize any financial burden they may incur and consider how the costs may be shared or how the terms can be modified to incentivize the investment.

Before finalizing any lease, Gary Wright, Farm Management Specialist at Iowa State University Extension and Outreach, recommends both tenants and landlords consult an experienced agricultural law attorney. More information about sustainable agriculture leases is available through American Farmland Trust. Receive free materials by filling out the enclosed card.

UNDERSTANDING FARM LAND LEASES

The two most popular types of leases are cash rent and crop share. These leases differ in how risk is shared between the owner and the tenant. All lease types can accommodate practices that protect natural resources, especially if these are considered in drafting the lease. The length of the lease can be particularly important to consider to ensure both parties benefit from investments that may take more than a year to generate a return.

CASH-RENT LEASE:

The tenant pays a fixed dollar amount in rent, either on a per acre or whole farm basis. In this scenario the landlord is not involved in crop production.

Advantages:

- » Owner assured of steady income.
- » Owner does not need to help manage production, but can include conservation provisions in the lease including those that build soil health and fertility, and reduce nutrient losses and erosion such as cover crops and variable rate fertilizer application technology. The cost of any long-term investments the farmer may be required to make, that will not generate a return during the lease term, should be considered when setting the cash rent cost. Visit <https://www.farmlandinfo.org/improve-on-farm-conservation> for more information about conservation practices.
- » Tenant has freedom to manage land, but must abide by any restrictions stated in the lease agreement.

Disadvantages:

- » Owner does not share in profitable years and has more limited income tax management options.
- » Owner may have less opportunity to encourage on-farm conservation practices beyond what is explicit in the lease.
- » Landowner and tenant are generally subject to reduced USDA payments compared to a crop-share lease, which may inhibit the inclusion of new beneficial practices.
- » Greater risk for the tenant who pays a fixed amount before income is known, however, implementing practices that prevent erosion, increase water-holding capacity and retain nutrients on fields, can reduce weather-based yield variability.



Sue Zelter, a generational farmer, and Brendyn George, tenant and long-time friend, have maintained a 50/50 crop share for many years. Photo credit: American Farmland Trust

Sue Zelter, a generational farmer based in Ohio, and Brendyn George, tenant and long-time friend, have maintained a 50/50 crop share for several years. The relationship has proven to be fruitful based on great communication and Sue's quest to expand her farming knowledge. According to Brendyn, for a tenant-owner relationship to work, "You need to make your landlord your friend and always keep in good communication to build trust. Sue has attended workshops and educated herself on many farming aspects, she even looks at the paperwork!" Sue attends learning circles through Great Lakes Conservation Connect partnership, where women can come together to discuss challenges, successes and learn about important aspects of farming. For Sue, "It's important to be able to learn from other women and to gain a voice for what you want on your farmland."

See our upcoming learning circles on reverse panel.

CROP-SHARE LEASE:

The landlord pays a portion of input costs including but not limited to seed, fertilizer, or fuel, and may also hire additional labor. The tenant manages the balance of the input costs and labor. After harvest, proceeds are divided according to the agreement. The owner/tenant share typically ranges from 25/75 to 50/50.

Advantages:

- » Tenant and owner share production and market risks, and income benefits. Depending on the lease term, this can be an advantage when considering conservation practices.
- » Tenant capital requirements reduced; landowner shares up-front costs. Understanding how conservation practices may influence costs, for example building soil organic matter may require an initial investment but decrease long-term input costs, will help inform the conversation.
- » Owner is eligible for tax-related benefits including Section 179. Annual savings from tax provisions can be directed towards maintaining or introducing practices that benefit soil health and nutrient management.

Disadvantages:

- » Tenant is not completely free to make operating decisions, which can introduce challenges if the landowner is not knowledgeable or experienced in farming practices, but also allows for landowner ongoing input including on practices that protect natural resources.
- » Landowner income can be reduced in years with low yields and market pricing versus cash-rent. This variability may encourage options to protect yields that can also support conservation goals, for example applying a portion of the nitrogen requirements closer to crop need, or introducing nitrogen-loss inhibitors.
- » Depending on the landowner's level of participation, income they make from the lease may be excluded from self-employment income. Material participation in crop production and marketing may help build landowner social security base.

OTHER TYPES OF LEASES:

HYBRID LEASES:

Want the best of both worlds? It's possible to draft an agreement where the landlord will receive a minimum fixed rent payment while sharing in some of the profits, losses and decision-making. This reduces risks for farmers in low income years and allows tenants to pay a decreased "base" rent compared to a cash-rent scenario.

LABOR-SHARE LEASE:

Labor-share leases are especially useful for beginning producers. The tenant provides labor and management but little to no financial investment or equipment. The ability to participate in decision-making with the landowner means the tenant is more than just a hired worker. The tenant shares production and price risk, but also expects a greater return if their contribution leads to higher profits. Reducing financial burdens on tenants may encourage more strategic thinking around investing or co-investing in conservation practices.

To find out more about cash-rent and crop-share leases, visit <https://aglease101.org/DocLib/default.aspx>.

TAKEAWAYS

A written lease agreement establishes a formal relationship with your tenant and provides an opportunity to specify the level of participation and risk you are comfortable with. Whether you are actively engaged in decision-making or interested solely

in collecting rent, expert legal advice can help ensure that your lease protects your investment. There are several other types of lease agreements besides those

discussed here; working with an experienced agricultural law attorney can help match the best type of lease for your needs. In any event, carefully consider the length of the lease, which is an important consideration for farmers considering investing in practices that generate long-term benefits, including conservation practices that help protect natural resources and the long-term value of your farmland.

Whether you are actively engaged in decision-making or interested solely in collecting rent, expert legal advice can help ensure that your lease protects your investment.

INCENTIVES TO HELP YOU CARE FOR YOUR LAND!

Great Lakes Conservation Connect is offering landowners in Ohio and New York up to \$1,500 per individual for support and implementation of activities identified in a designated conservation plan and agreed to by the farmer renting their land. At least 20% of total implementation cost must be provided by the farmer and/or landowner. Activities must be implemented by December 2019. Examples include:

- » Farmer and landowner agree to get up to four fields tested with comprehensive soil health testing (i.e. the Cornell test or Haney test) along with implementing an additional practice. Project will cover the cost of testing.
- » Farmer and landowner agree to try cover crops. They are reimbursed for 80% of the seed purchase, up to \$1,500.
- » Farmer and landowner agree to several conservation practices and decide to implement a new, longer term lease with flexible rent payments to accommodate the new practices. Program pays for 80% of attorney fees to develop the new lease, up to \$1,500.
- » Farmer and landowner agree to invest in variable rate fertilizer application technology with a local retailer. Program pays for 80% of the service, up to \$1,500

If you are an interested landowner from Ohio, contact Ashley Brucker: abrucker@farmland.org.
If based in New York, contact Aaron Ristow: aristow@farmland.org.



Women at a Landowner Conservation Learning Circle



RESOURCES FOR LANDOWNERS

American Farmland Trust's Farmland Information Center holds a collection of resources specifically created to help landowners navigate common issues including leasing, on-farm conservation, land transfer and land protection.

Visit our "Landowner Options" collection here:
<https://www.farmlandinfo.org/landowner-options>.

UPCOMING EVENTS:

Ohio

*Women for the Land Conservation Learning
Circle Series: Farming for Clean Water*

**April 17th
9am–3pm**

Have you ever wondered how certain farming practices can impact water quality? Join agriculture and conservation professionals along with other landowners like yourself to learn about the basic practices to improve water quality.

Please call: Wood SWCD (419) 354-5517 if you have questions or need more information. RSVP through this link: <https://farmland.salsalabs.org/waterohio/index.html>

Great Lakes Conservation Connect Webinar Series

Next webinar airs July 2019, topic and date TBD

Latest webinar release:

*Conservation on Rented Land: A Discussion
Between Farmer and Landowner*

Discover the way in which a second-generation organic farmer and his landowner worked together to install and manage conservation practices through their lease agreement. A Q&A will be provided at the end of the presentation, where either farmer or landowner can answer any questions you may have about integrating conservation practices on rented lands.

Access the recorded series on the Partnership for Ag Resource Management website:
<http://partnershipfarm.org/webinars/>

RECENT EVENTS

Ohio

*Women for the Land Conservation Learning
Circle Series: Pollinator Habitats*

**March 28th
9am–3pm**

Join women conservation and agriculture professionals as well as women farmland owners for a free conversation about how to implement pollinator habitats on your land and the benefits.

Pahl's Farm Market,
12076 SH 53 West,
Upper Sandusky, OH

Email Ashley Brucker, abrucker@farmland.org, for more information.

New York

Genesee River Ag Forum

**March 27th
10am–2pm**

A free workshop for agencies, organizations, farmers and landowners about opportunities to improve water quality and strengthen the future of farming in the region.

3360 Gypsy Ln,
Mt. Morris, NY 14510

Email Aaron Ristow, aristow@farmland.org, for more information.

LEARN MORE

More information about Great Lakes Conservation Connect and upcoming events for farmers and landowners can be found at: www.farmland.org/greatlakes or on Facebook at <https://www.facebook.com/GLConservationConnect>.

HEAR WHAT OUR LEARNING CIRCLE PARTICIPANTS HAVE TO SAY!



There's some truth to the stigma of women not farming and handling equipment—women can be totally ill-prepared, and some are forced into this lifestyle through unfortunate life events. Women can overcome this, and learning circles help by giving women the chance to learn equal farming practices and to ask questions."

- Lesley Riker, OH

We can sit around and share with our hearts. I am so glad this was an opportunity for me. It really helped me to understand not only my values for the land, but also the values that the land gives to us."

- Marlila Hickin, VA

I'm not the only woman in agriculture who wants to gain knowledge. I attended two women learning circles and found many other women who owned farmland. It's important to be able to learn from other women and to gain a voice for what you want on your farmland."

- Sue Zeltner, OH

Great Lakes Conservation Connect

Great Lakes Conservation connect is a partnership formed to engage both women non-operator landowners and tenants to work together to increase conservation practices on rented lands while improving water quality in the Great Lakes.

Contact Jennifer Filipiak (jfilipiak@farmlandl.org) to get involved.

We are grateful for the generous support of the Great Lakes Protection Fund to make this work possible. American Farmland Trust works in collaboration with a team of organizations to foster the adoption of agricultural conservation practices on rented farmland that can improve water quality of the Great Lakes: Wood and Ottawa Soil and Water Conservation Districts of Ohio; Cornell University Cooperative Extension NWNY Dairy, Livestock & Field Crops Team in New York; Utah State University; and IPM Institute of North America.



Cornell University
Cooperative Extension
Northwest NY Dairy, Livestock and Field Crops Program



The Great Lakes Conservation Connect Team has created a series of checklists to help landowners assess their on-farm resources and think through their goals for the land. *If you would like to receive these three checklists, please return the enclosed card.*