

Nine things that should be in a cropland lease

Knowing what should be included in cropland leases will help both lessee and lessor.

Posted on **November 27, 2013** by **Curtis Talley Jr.**, Michigan State University Extension

There are as many lease terms possible as there are farm situations. These nine categories should be in a cash cropland lease.

1. **Correct legal names of all parties.** Is the lessee an individual, an LLC, corporation? If the operator also wants his wife listed as a co-lessee so that she can succeed him if something happens to him, her name and signature should also be on the lease. For the spouse who wishes to assign a lease as part of an estate plan during the lease term, her or his name should be listed as one of the lessees.
2. **Correct legal description of the farm and a farm map.** The legal description should match the description on the deed. A farm map with the boundaries of the leased area highlighted clarifies which land is in the lease. If there are certain areas that are not to be included, they should be noted and highlighted.
3. **Start and end dates.** It is not uncommon to sign a lease on one date, but the lease not be effective until a later date. For example, a lease may be signed in Sept., but not be effective until Jan. 1. Is the lease a one year lease that automatically renews unless either party gives written notice by a pre-determined date, or does it have a definite ending date? Possession date can be different than the signing date. For example, it is not uncommon to allow possession as crops are harvested from each field. On the other side, when should the lessee vacate the property as this lease comes to a close? Possession date can have a major impact on the success or lack thereof of a new lessee.
4. **Rent.** When and how will the rent be paid? If certified funds are required instead of a personal check, it should be stated. There are alternatives to how the rent is paid. For example, it may have 100 percent due at lease signing, or it may be paid in installments. If so, the dates of those installments are important to include. Some owners, particularly if they do not know the operator, may want security for the rent not due until a later date. If so, the type of security should be listed, such as an irrevocable letter of credit.
5. **Conflict resolution.** If the lease is silent on this topic, the only method could be utilizing attorneys. The lease can require that differences be settled by mediation or binding arbitration.
6. **Facilities owner provides.** It is not unusual for there to be facilities such as buildings or irrigation wells already present. If so, it should be stated who is responsible for maintaining them, the owner or the operator. For example, a lease that involves irrigation equipment may require the operator to pay for all maintenance up to a certain dollar amount and then the owner pays, or the operator have responsibility for all maintenance costs including major repairs. In certain situations, the owner may allow the operator to make repairs during the year and ask for reimbursement of the total cost, or for materials only. Can the operator make repairs up to a certain cost without owner's permission and request reimbursement at the end of the year? If a repair, such as an electrical repair to an irrigation well is required, but beyond the capability of the operator, will they be allowed to hire an expert to make those repairs, or are they required to get owner approval first?

7. **Installation of capital improvements.** As landowners retire from active farming, but continue to own the land and more land is converted to irrigation, there are opportunities for the operator to add capital improvements such as wells and center pivots, or trees and drip irrigation to the property. If this is the situation, the lease should determine what can be installed and who will own it at the end of the lease term. The Michigan Cash Farmland Lease includes a section that deals with this topic.
8. **Water use Reporting.** In Michigan, a high volume water usage report is due by April each year to the Michigan Department of Agriculture and Rural Development. It is extremely important to insure that this report is filed each year. The lease should state if the operator or owner is responsible for reporting.
9. **Hunting privileges.** Hunting is an important part of life in Michigan. If the owner wishes to reserve all hunting privileges, it should be stated.

To assist producers and landowners with utilizing a written lease, [Michigan State University Extension](#) created the downloadable [Michigan Cash Farmland Lease \(E3193\)](#). This template is designed to be adaptable to a variety of situations including those specific to State of Michigan law. If you have any questions regarding leasing of cropland or oil and gas feel free to contact me author at talleycu@anr.msu.edu.

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