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NORTH CENTRAL **FARM MANAGEMENT** EXTENSION COMMITTEE

Fixed and Flexible Cash Rent Lease Agreements For Your Farm

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Fixed and Flexible Cash Rent Lease Agreements For Your Farm

Rental agreements for cropland vary widely from one geographic area to another. What is desirable or equitable for one particular landowner/operator relationship is not acceptable for others. The purpose of this publication is to help operators and landowners develop equitable cash rent agreements and assist them in making sound decisions based on an equitable evaluation of resources. The first section (Part I) addresses whether a fixed cash rent lease agreement should be used. Part II discusses how to develop an equitable fixed cash rental rate. Part III outlines methods for developing a flexible cash rental lease and their advantages and disadvantages. Part IV discusses the importance of putting the legal agreement in writing. A sample lease form is also included.

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PART I

Should You Be Using a Fixed Cash Rent Lease Agreement?

Landowners and operators can choose from several types of rental agreements. In addition to cash rent lease agreements, the lease agreement can be a crop-share lease, fixed bushel lease or net share lease. Landowners who wish to retain management control but do not have the necessary equipment or labor may hire custom operators to conduct all or specific field operations. This type of custom farming agreement leaves all risk with the landowner. Similarly, landowners can hire labor to operate their own equipment to conduct field operations. There are both advantages and disadvantages to cash rent lease agreements. Some points to consider in deciding whether the fixed cash rental agreement fits your situation are outlined in the following discussion.

Advantages of Cash Renting – Landowner

1. Less (perhaps no) managerial input is required than with other leasing agreements.
2. Reduced involvement in management reduces the possibility of friction between the landowner and operator concerning management decisions.
3. Concern over accurate division of crops and expenses is eliminated.
4. The landowner does not have to manage the marketing of crops.
5. Fixed cash rent lessens the landowner's concern over variations in prices and yields. The operator bears all price, cost, and production risks.
6. Income under the lease does not constitute self-employment income subject to Social Security tax and will not reduce Social Security benefits in retirement.
7. Reduced paperwork requirements stemming from the fact that the landowner no longer is required to fulfill crop insurance and Farm Service Agency (FSA) obligations.

Disadvantages of Cash Renting – Landowner

1. A cash rent amount acceptable to both parties can be difficult to determine.
2. Once a cash rent rate is set, a change in the rental rate may be difficult to negotiate when changes in prices and costs take place.
3. In average or above-average years, the landowner may receive less net income than from crop-share rent.
4. The landowner has fewer opportunities for income tax management. Under a crop-share agreement and cash reporting of taxable income, the amount of taxable income can be shifted from one year to another through timing of crop sales before or after the end of the year. Similarly, purchase of fertilizer, seed, or other inputs for the next growing season can be made in the closing months of the tax year to reduce taxable income.
5. There may be increased risk that the operator will not maintain the fertility of the land, or keep buildings in good repair, especially if the lease is for only one year. However, competition for land and appropriate requirements in a written lease can minimize this problem.
6. The landowner has little opportunity to build a base for Social Security payments because of the difficulty in establishing acceptable evidence of material participation. This may not be a concern to retired landowners, however.

7. Owner has financial risk of operator non-payment unless steps are taken to reduce this risk. Steps may include:
    a. Recording the written lease at the proper local government authority.
    b. Require all or a portion of the rent to be paid in advance.
8. Eligibility for paying federal estate tax in installments over 15 years after death could be jeopardized. Land rented under a cash rent lease does not constitute an interest in a closely held business, which the decedent must have at the time of death to be eligible to pay federal estate tax in installments. Only crop-share or livestock-share leases qualify as an interest in a closely held business.
9. To value the farmland in the landowner's estate at its use value rather than its fair-market value for estate tax purposes, the following two requirements must be met:
    a. Before the landowner dies, a cash rent lease can be used only to a member of the landowner's family as the operator.
    b. After death, the heirs must not rent out the use-value land under a cash lease, unless it is to a member of the family of the surviving spouse or lineal descendent of the deceased.

Advantages of Cash Renting – Operator

1. The operator has a relatively free hand in making management decisions.
2. Potential for friction between the operator and landowner is minimized because of the landowner's reduced participation in management.
3. The operator has more incentive to strive for high yields.
4. The operator can benefit from any windfall profits from unexpected crop price increases or unusually high yields.
5. The operator does not need to divide crops or income from sale of crops nor keep special records on expenses for the landowner as required under a crop-share lease.
6. Compared to land ownership, less capital is tied up in the land asset.

Disadvantages of Cash Renting – Operator

1. Increased risk from price and yield variations. Cash rent is a fixed cash expense that may be difficult to pay in a poor crop year or with very low crop prices.
2. Increased risk from losing land base that may be critical to the financial security of the operator's farm business. Owner may choose to rent farmland to another operator.
3. Cash rental rates tend to trend upward as crop yields increase, even though most of the yield increases may be a result of managerial skills.
4. The operator must supply all the operating capital needed to purchase crop inputs, as well as to pay any of the cash rent that is due in advance.
5. No USDA payment limitation is created for the landowner (versus a crop share lease), possibly reducing the overall value of payments that can be received by the operator and landowner combined.

PART II

Establishing an Equitable Fixed Cash Rental Rate

Factors Affecting Cash Rental Rates

Ultimately, supply and demand of cropland for rent will determine the cash rental rate for each parcel. The expected return from producing crops on a farm parcel is the overriding factor in determining the demand for a farm and is the primary driver in establishing an equitable rental rate. Local supply and demand of cropland will affect rental rates in any given community. Many of the following factors contribute to the expected crop return and the supply and demand of cropland. Other factors listed affect potential rental negotiations in different ways.

1. Expected Crop Return and Variability of Crop Return – Rent will vary based on expected crop return. The higher the expected return the higher the rent will tend to be. Land that exhibits highly variable returns may have rents discounted for this quality. For example, land that is poorly drained may exhibit variability of returns due to late plantings from wet springs. The following factors play a large role in expected crop return and variability of those returns.
    a. Land Quality – Higher quality soils translate into higher rents.
    b. Fertility Levels – Higher fertility levels often result in higher cash rents.
    c. Drainage Capabilities – Better surface and sub-surface drainage of a farm often results in better yields and higher potential cash rent.
2. Buildings and Grain Storage Availability – Access to machinery and grain storage may enhance the value of the cropland rental rate.
3. Size of Farm – Large farms typically command higher average cash rent per acre due to the efficiencies gained by operators.
4. Location of Farm (Including Road Access) – Proximity to prospective operators may determine how much operators are willing to bid for cash rents. Good road access will generally enhance cash rent amounts.
5. Shape of Fields – Square fields with fewer “point rows” will generally translate into higher cash rents as operators gain efficiencies from farming fields that are square.
6. Previous Tillage Systems or Crops – Previous crops and tillage systems that allow for an easy transition for new operators may enhance the cash rent value.
7. USDA Farm Program Measurables – Farms that participate in the USDA Farm Program and have higher “program yields” may command higher cash rents than non-program farms.
8. Services Provided by Operator – Operators that “go the extra mile” by providing services such as clearing fence rows, plowing snow in the winter, and other services may be valued by the landowner. This may be considered payment in lieu of cash.
9. Conditions of Lease – Conditions placed on the lease by the landowner may result in fewer prospective operators and a lower average cash rent.
10. Payment Dates – Leases that require part or all of the rent to be paid early in the year (“up-front”) may result in lower rental rates due to higher borrowing or opportunity costs for the operator.

11. Reputation of Landowner/Operator – Reputations of the parties may play a part in the cash rental negotiations. A landowner that has a reputation of being difficult to work with may see cash rents negatively affected by this reputation. An operator's reputation may positively or negatively affect their opportunities.
12. Special contracts that are tied to the farm – Farms that have special contracts tied to them may restrict the operator from changing crops based on market conditions. This may negatively impact cash rents. There may also be contracts that positively affect cash rents such as high value crop contracts or contracts for receiving livestock manure.
13. Field Border Characteristics and Wildlife Damage Potential - Fields surrounded by fencerows or woodlots may create poor yield conditions due to competition for light and water which may impact plant growth. Close proximity to these areas may increase incidence of wildlife depredation.

If the decision is to rent for cash, how is an equitable rental rate determined for the farm or field in question? There are several methods that can be used to establish a fixed cash rent for a particular farm or field:

1. Cash rent market approach
2. Landowner's ownership cost
3. Landowner's adjusted net-share rent approach
4. Operator's net return to land approach or the "the amount an operator can afford to pay"
5. Percent of land value approach
6. Percent of gross revenue approach
7. Dollars per bushel of production
8. Fixed bushel rent

The following discussion and worksheet examples are related to cash renting a farm.

The concepts and approaches outlined in this publication are the same whether cash renting of a field or total farm is being considered. In some cases, the landowner and operator may only want to consider cash rent for a specific crop.

Cash Rent Market Approach

This method requires knowledge of cash rents being paid for farms in the area. It assumes rents reflect an arm's length negotiation between an informed landowner and a knowledgeable operator. Adjustments should be made for differences in the productivity of the farm and the amount and quality of improvements.

This approach has some disadvantages. It may be difficult to determine actual cash rents being paid for comparable farms as well as any adjustments that need to be made in the rental rates. Other approaches may be more complex, yet better reflect a specific situation. The rates determined by any method cannot deviate greatly from the prevailing market rates if those rates are to be seriously considered in the final bargaining process.

Prevailing rental rates may be available from surveys conducted by state Extension specialists or by the National Agricultural Statistics Service (NASS). Do not assume that informal reports or rumors of rental rates for specific farms are accurate or representative of all rented land in the area.

State soil survey indices or crop suitability ratings may be useful in determining the relative production capabilities of land parcels. These indices and ratings may allow the user to determine an equitable rent amount based on the current market.

Landowner's Ownership Cost

Under this approach, the landowner calculates the cost of resource ownership from the property. Worksheet 1 provides an example of the required computations.

Example Worksheet 1. Landownership Costs as Basis for Fixed Cash Rent

Crops Grown: Corn, soybeans, wheat		**Acres:** 150	
Item	**Per Acre Value**	**Rate**	**Annual Charge**
Land	$ 4,000 ×		
Interest		× 4 %	$ 160
Real Estate Tax		× 0.5 %	$ 20
Land Improvements			
Tiling	$ 500 ×	5 %	$ 25
Surface drainage	$ ×	%	$
Conservation practices	$ ×	%	$
Liming	$ ×	%	$
Total Cost			$ 205

Some points to remember in deriving these ownership costs are:

Land: Land is valued at its current fair-market value for agricultural purposes. The influence of location near cities and other nonagricultural influences on value should be ignored. That is, the value of land as it relates to its productivity in crop production is all that should be included as this is what is offered to the operator as rent.

Interest on land: The land value multiplied by an opportunity interest rate is a method of estimating the annual land charge. A practical starting point for negotiating the return to land is the rent-to-value ratio in the region (cash rent divided by market value), as this reflects the "opportunity cost" of not renting the land on a cash basis. Table 1 reports the rent-to-value ratios for average cropland in the various regions in the U.S. as reported by USDA NASS. It can be seen that the rent-to-value ratios vary considerably from region to region. Additionally, it can be seen that the ratios have been trending down in some regions and thus using a longer term historical average value may not be appropriate.

Real estate taxes: The actual taxes due annually is another contribution of the landowner.

Land development: The average dollars spent annually for lime, conservation practices, and other land improvements should be used.

Other: If capital has been invested to improve land productivity, such as tile drainage, then include a reasonable depreciation allowance for this investment.

Landowner's Adjusted Net-Share Rent

This method for computing cash rent assumes the rent value should be comparable to the net return a landowner receives under a crop-share lease. Normally, fixed cash rents are expected to be lower than net crop-share rent since the operator incurs all price and weather risk. The difference represents the operator's compensation for carrying the added risk.

Cash rents are not always less than crop-share rents, however. If there is a strong demand for land in an area, cash rents may exceed net crop-share rents. This explains why landowners are sometimes reluctant to change from cash rent to crop-share agreements.

If this method is utilized, an average net crop share over a period of years should be used to allow for both good and bad yields. Landowners who have rented on a share basis in previous years are likely to know the percentage of crop share received.

Worksheet 2 will help the landowner estimate what the average net-share rent has been. Use yield and cost values that can be realistically expected for the current year and typical share agreements for the community or area in determining the landowner's share of income and expenses. Other income such as USDA payments should be added if they are a part of total gross income. No USDA income is included in the following example worksheet.

Example Worksheet 2. Converting Landowner's Net-Share Rent to Cash Rental Rate[1]

Landowner's Share of Gross Crop Value

Crops	Acres	Yield per Acre[2]	Percent of Crop	Tons or Bushels	Price[3]	Total Value	Per Acre Value
Corn	75	170	50 %	6375	$ 4.50	$ 28,687	$
Soybeans	40	50	50 %	1000	$ 11.00	$ 11,000	$
Wheat	35	65	50 %	1138	$ 6.00	$ 6,825	$
Other Income[4]			%		$	$	$
Totals (A)	150					$ 46,512	$ 310.08

Landowner's Share of Shared Expenses

Crops	Landowner Share	Seed[3]	Fert. & Lime[3]	Pesticides[3]	Harvest/ Drying[3]	Total Cost	Cost/Acre
Corn	50 %	$ 3,375	$ 4,125	$ 1,312	$ 1,688	$ 10,500	$
Soybeans	50 %	$ 1,160	$ 920	$ 400	$ 500	$ 2,980	$
Wheat	50 %	$ 560	$ 1,312	$ 228	$ 438	$ 2,538	$
Totals (B)	%	$	$	$	$	$ 16,018	$ 106.79

Landowner's Crop Rent (A−B)	$ 203.29
Less risk shifted to operator[5]	$ 15.50
Net landowner's share rent per acre	$ 187.79

[1] If whole farm leased on a cash-rent basis, list all crops grown, income and shared expenses from each crop
[2] Use average yields, allowing for both good and bad years. Incorporate trend in yields
[3] Use current prices and costs.
[4] USDA payments, crop stover, etc.
[5] Example risk value is 5% of total crop receipts. This number will vary depending on the production risk in your area.

Once the net-share rent value has been determined or estimated, the landowner and operator must decide how to adjust this value for price and weather risk assumed by the operator. Determination of the risk value is a matter for negotiation. In the example, the risk value was set equal to 5 percent of total crop receipts.

Operator's Net Return to Land

In the desire to farm more land, operators may at times bid more for land than they can actually afford. Hence, operators need to carefully budget how much money will be available to pay for the use of land after variable expenses, fixed costs on machinery, and a return to labor and management have been deducted from the gross value of crops. Worksheet 3 outlines a procedure to estimate how much can be paid for land in the form of cash rent.

Example Worksheet 3. Amount of Cash Rent Operator Can Afford to Pay[1]

Gross Value of Crops Produced

Crops	Acres	Yield per Acre[2]	Price[3]	Total Value	Per Acre Value
Corn	75	170	$ 4.50	$ 57,375	$
Soybeans	40	50	$ 11.00	$ 22,000	$
Wheat	35	65	$ 6.00	$ 13,650	$
Other Income[4]			$	$	$
Totals (A)				$ 93,025	$ 620.17

Total Variable Costs[3]

Crops	Acres	Variable Costs per Acre[2]	Total Variable Costs	Per Acre Value
Corn	75	$ 340	$ 25,500	$
Soybeans	40	$ 190	$ 7,600	$
Wheat	35	$ 180	$ 6,300	$
Totals (B)	150		$ 39,400	$ 262.67

Total Fixed Costs, Labor, and Management[3]

Crop machinery: machinery value per acre	$ 500.00	
Depreciation for 10 years	$ 50.00	
Interest on average investment at 6 percent	$ 30.00	
Taxes at ____%	$	
Insurance at .25 %	$ 1.25	
(C) Total machinery fixed costs		$ 81.25
(D) Labor charge[5] (2.0 hrs/ac @ $13 /hr)		$ 26.00
(E) Management charge (5.0 % of total crop values)		$ 31.01
(F) Total production costs (B+C+D+E)		$ 400.93
(G) Amount that can be paid for rent per acre (A-F)		$ 219.24

[1] If whole farm leased on a cash-rent basis, list all crops grown, income from each crop, and variable expenses for each crop.
[2] Use average yields, allowing for both good and bad years. Incorporate trend in yields.
[3] Use current prices and costs. Variable costs include fuel, oil, repairs, fertilizer, herbicide, insecticide, interest on operating costs, custom hire, drying, insurance, and miscellaneous costs.
[4] USDA payments, crop stover, etc.
[5] Labor expense or charge may be included in variable expenses.

The values for labor and management may be the most difficult to determine. The labor value used should reflect the amount of time used only for crop production and general farm maintenance. The hourly rate should equal what could be earned if working for other farmers in the area. Management is sometimes valued at 5 to 10 percent of gross value of crops, or 1.5 to 2.5 percent of the investment in land, equipment, and machinery.

Percent of Land Value

Land ownership may be viewed as just another type of asset in a portfolio of investment alternatives. Owners would likely be looking for a rate of return commensurate with other types of investments, adjusted for differences in risk. Comparable investments would include investments of a similar holding period. In the case of land, longer term investments should be used as comparisons. The landowner and the operator are exposed to different types of risk in this scenario. The landowner's primary risk is the potential for land values to decline. The operator's primary risk is the variability of yields, market prices and cost of inputs. Worksheet 4 provides an example.

Example Worksheet 4. Percent of Land Value Approach

Crops Grown: Corn, soybeans, wheat **Acres:** 150

Item	Per Acre Value		Rate	Annual Charge
Land	$ 4,000	×		
Typical Rent to Value		×	5 %	
Total Cost or Desired Return				$ 200

Table 1 shows average cash rents as a percent of land value for several states over a decade. In recent years land values have been increasing faster than rents, causing rent as a percent of value to decline. A partial explanation for this trend is a general decrease in interest rates and returns on alternative investments during this time period. The values in Table 1 do not represent a net return on investment – ownership costs such as property taxes and upkeep of fences, terraces and tile lines must be paid from the cash rent received.

Table 1. Cropland Cash Rents as a Percent of Land Value in Select States

Year	Illinois	Indiana	Iowa	Minnesota	Nebraska
2007	3.4%	3.3%	4.2%	3.9%	5.9%
2008	3.4%	3.3%	4.0%	4.0%	5.9%
2009	3.6%	3.6%	4.4%	4.4%	6.0%
2010	3.6%	3.3%	4.0%	4.5%	5.6%
2011	3.3%	3.0%	3.5%	4.4%	4.8%
2012	3.4%	3.0%	3.5%	4.0%	4.2%
2013	3.1%	2.9%	3.2%	4.1%	4.2%
2014	3.1%	2.8%	3.0%	3.8%	4.0%
2015	3.0%	2.9%	3.2%	3.7%	4.1%
2016	3.0%	2.9%	3.1%	3.5%	4.1%
2017	3.0%	3.1%	3.1%	3.4%	4.4%
2018	3.1%	3.2%	3.2%	3.4%	4.5%
2019	3.1%	3.1%	3.2%	3.4%	4.4%
2020	3.0%	3.1%	3.2%	3.4%	4.5%
2021	2.9%	2.9%	3.0%	3.4%	4.0%
2022	2.7%	2.7%	2.7%	3.0%	3.5%
Avg	3.2%	3.1%	3.4%	3.8%	4.6%

Source: USDA-NASS

Percent of Gross Revenue

Another method of establishing a cash rental rate is to set it equal to a fixed percent of the expected gross revenue produced from the rented land. This would include income from the sale of grain or forage production as well as any secondary products such as straw or stover. This method would be similar to share renting except the landowner would not have a share of the crop to store and market, nor pay any input costs.

The expected yield can be based on actual yields obtained from the farm in recent years if such information is available. Expected prices for major commodities can be found by adjusting the relevant harvest time futures prices for typical basis values, or checking to see what forward contract prices are being offered by local buyers at the time the rent is being determined. Some products such as forages and straw are more difficult to assign a market value to, due to less market data being available.

Example Worksheet 5. Cash Rent Equal to a Percent of Expected Gross Revenue

Crop	Expected Yield	Expected Price	Expected Gross Revenue	Rent as % of Gross Revenue	Cash Rental Rate
Corn	170 bu.	$ 4.50	$ 765	33 %	$ 252.45
Soybeans	50 bu.	$ 11.00	$ 550	40 %	$ 220.00
Wheat	65 bu.	$ 6.00	$ 390	45 %	$ 175.55
Weighted Average: Based on Corn: 75 acres, soybeans: 40 acres, wheat: 35 acres					$ 225.85

The appropriate percentage of the gross income to use to establish the cash rent can be a typical share of the crop received by the landowner under a crop share lease in which the operator pays all the production costs. This share will vary by region. Worksheet 5 shows an example of this approach to setting a cash rent.

Dollars per Bushel of Production

This method calculates rent based on a fixed value per bushel. The rate may be based on the dominant crop and applied to all acres or may be based on all crops produced. If this method uses actual yields, it will become a flexible cash rent. If it is based on a constant or expected yield, such as a productivity index, it is a fixed cash rent. This is a reasonable approach when selling prices are relatively stable over time. It is also useful for adjusting the rental rate for differences in productivity among farms in a county or region. Worksheet 6 shows how this method might be used.

Example Worksheet 6. Dollars per Bushel of Production

Crops Grown: Corn **Acres:** 150

Item	Average Yield[1]		Price per Bushel[2]	Annual Charge
Corn	170	×	$ 1.20	$ 204

[1] Certain states have a productivity rating that may be used
[2] Based on a percent of observed historical rents

Fixed Bushel Rent

A fixed bushel rent would the pay the landowner a rent based on the value of an agreed on quantity of production each year. If the expected selling price at the time the rent is negotiated is used, the rental rate is considered a fixed cash rent. If the actual value of the rental payment is based on the current market value of a fixed number of bushels after harvest, this method becomes a flexible cash rental agreement, as discussed in Part III. See Worksheet 7 for an example based on the sample farm listed in previous examples.

Example Worksheet 7. Fixed Bushel Rent

Crops Grown: Corn **Acres:** 150

Item	Bushel Rent[1]		Price per Bushel	Annual Charge
Corn	56 bu.	×	$ 4.50	$ 252

[1] Based on historic rent as a percent of revenue. Based on an equitable crop share percentage (landowner paying no expenses except land) with a discount for production risk.

What is an Equitable Cash Rent? – The Bargaining Process

A final cash rent figure acceptable to both operator and landowner can be derived from more than one of the methods outlined in this publication. They should identify areas of agreement and differences based on the values each has independently developed. To aid in this process, Table 2 summarizes the example values derived from the different methods.

Negotiation provides a means of arriving at a rate that is acceptable to both parties and is an opportunity for them to understand each other's point of view. Negotiations should begin only after the contributions of each party are known and information is provided on local leasing agreements.

Table 2. Comparison of Results When Different Approaches Are Used

	Example Farm	Your Farm
Cash Rent Market Approach	$ 200.00	$
Landowner's cost or desired return (Worksheet 1)	$ 205.00	$
Landowner's Adjusted Net-share Rent (Worksheet 2)	$ 187.79	$
Operator's Net Return to Land (Worksheet 3)	$ 219.24	$
Percent of Land Value (Worksheet 4)	$ 200.00	$
Percent of Gross Revenue (Worksheet 5)	$ 225.85	$
Dollar per Bushel (Worksheet 6)	$ 204.00	$
Fixed Bushel Rent (Worksheet 7)	$ 252.00	$

Both parties need to recognize that pressing an advantage too far can result in an inequitable agreement for one or the other. A lease that is inequitable to either party is unlikely to last. An inequitable, lopsided agreement tends to discourage good management and cooperation from the disadvantaged party.

In addition to one-on-one negotiation between landowner and operator, landowners have other options for securing an operator farmer and determining a cash rental rate. The landowner should have the fundamental terms of their leases (i.e., the portions that are, from their point of view, non-negotiable) in place so that potential bidders can be aware of those terms and take them into consideration when formulating their bids.

Bid Process – A landowner may request bids from targeted farmers or may open the bid process to any and all prospective operators. The landowner should include whatever provisions he/she likes in the request for proposals. The landowner can evaluate each bid on its own merits to determine the best fit for his or her farm. There are even commercial services that allow landowners to offer farms for rent over the Internet.

Auction Process – Farms may be offered for rent at a public auction, just like a land sale. Cash rent auctions are not widely used but are a way to attract very high rents. However, the highest bidder may not be the best operator in the long run when it comes to caring for the property, and it is difficult to negotiate other conditions of the lease after an auction is held.

Professional Farm Manager – Many landowners employ a professional farm manager as their agent. The manager will locate an acceptable operator, negotiate the rental rate, and oversee the owner's interest in the property. Management firms may conduct sealed bid auctions to attract favorable rental rates. Landowners who live far from their farm and/or who have little knowledge of rental rates and customs will benefit the most from employing a professional manager.

Rent Appraisal – Landowners may seek out qualified appraisers with experience in rent appraisal. The complete rent appraisal will offer a range of rents for the identified farm. One downside is that the appraisal may be quickly out of date in a quickly changing market.

Negotiating Rental Payment Timing

The time and method of payment for the rent should be established in advance and recorded in the lease. Local customs for the timing of lease payments vary widely. Some landowners require part or all of the rent to be paid in advance (when the lease begins) in order to reduce the risk that the operator may be financially unable to pay the rent later. Others may allow the rent to be paid in several installments or after the crop is harvested. The payment stream should be adjusted to fit the operator's income flow as well as the landowner's need for cash to cover expenses.

The timing of the rental payments should be considered when setting the rental rate. For example, if a $200 rental payment is required to be made 8 months prior to harvest, and the operator is paying a 6% annual interest rate (0.5% per month) on borrowed operating capital, he or she will incur an extra financing cost of $200 × 0.5% × 8 months = $8. In this case the rental rate should be $8 lower than for a lease that allows rent to be paid at harvest.

Examples of Rental Payment Timing:

a. 100% paid by May 1
b. 50% paid by February 1 and 50% paid by December 1
c. 100% paid by December 1

USDA Farm Program Participation

USDA farm commodity payment programs contain a multitude of provisions that provide a level of risk protection for producers who enroll in them. Land rental agreements may impact how program payments are distributed. Under USDA regulations, if the rental agreement is determined to be a cash lease by the Farm Service Agency (FSA), the operator is entitled to receive 100 percent of farm program payments. If FSA interprets the lease to be a share lease, then neither the landowner nor the operator may receive 100 percent of the farm program payments. Customarily, payments are divided in the same percentage as the crop.

Beginning in 2009, FSA adjusted the interpretation of flexible or variable cash rental agreements, such that most of these leases will now be considered cash leases. If a lease provides for the greater of a guaranteed amount or share of the crop or crop proceeds, the lease will be considered a cash lease if the lease provides for both:

a. A guaranteed amount such as a fixed dollar amount or quantity; and
b. A share of the crop proceeds.

PART III

Putting Flexibility in the Cash Rent Lease Agreement

Farm commodity prices, yields and operating expenses are often uncertain. Therefore, operators and landowners may hesitate to commit to a fixed cash rent, especially for more than one year. Operators fear a fixed cash rent could pose a real hardship if commodity prices decline, if poor growing conditions reduce yields, or if input costs increase substantially. Landowners believe they should share in the benefits from a sharp rise in crop prices or higher than expected yields. At the same time, neither party may desire a crop-share leasing agreement. Therefore, the operator and landowner may turn to the use of a flexible cash rent of one kind or another. The idea of a flexible cash rent usually pertains only to the rent charged for cropland. Rents for buildings, for other farmstead facilities, or for comparatively minor acreages of pasture, hay, and woodland are usually fixed even when the rent for cropland is flexible. Both landowner and operator need to agree on the amount of "non-flexible" rent at the beginning of the lease period.

Advantages and Disadvantages of Flexible Cash Renting

A flexible cash rent agreement for cropland has certain advantages and disadvantages.

Advantages:

1. Flexible cash rent enables the landowner to share in the additional income that results from unexpected increases in the prices of crops included under the flex rate addendum or flex rate lease language. If the cash rent also is flexed for changes in yields, the landowner will benefit from above-normal yields regardless of the cause.
2. For the operator, risk is reduced. Cash rent expense is lower if crop prices or yields are less than normal.
3. Calculating flexible cash rent requires more communication from both parties.

Disadvantages:

1. For the landowner, flexible cash rent increases risk.
2. Windfall profits that may be realized by the operator from unexpected price increases are reduced.
3. If cash rent is flexed according to yield, the landowner becomes more concerned with the level of crop yields as well as the accuracy of reported yields. Yields must be verifiable and segregated for each land unit in the lease.
4. If cash rent is flexed according to yield, the operator may give up part of the benefits from higher yields resulting from managerial input, thus possibly reducing incentives to maximize profits.
5. Calculating flexible cash rent requires more management from both parties. There must be agreement on how to verify the factors that are used to set the rent each year.

Different Methods of Flexing Cash Rent

Cash rents are flexed primarily by: 1) flexing for changes in crop price only 2) flexing for changes in crop yields only or 3) flexing for both crop price changes and yield variations. Few, if any, methods provide for flexing cash rents in response to sharp, unexpected changes in the cost of purchased inputs. Thus, flexible cash rents should be examined periodically to determine if adjustments are needed due to changes in input costs.

Flexing for Crop Price Only

One flexible cash rent approach allows for flexing the cash rent only for changes in the crop price. Several "price only" options are available with four different methods outlined in the following discussion. Rents that flex only on price increase risk substantially for operators. A short crop that leads to higher prices and higher rent may leave the operator with less ability to pay

Base rent multiplied by ratio of current year's price to base price. The operator and landowner should agree at the beginning of the leasing period on a base rent and a base price if this method is used. For example, the operator and landowner might agree that the base cash rent would be $175.00 per acre and the "base price" of corn is $3.50 a bushel. If the "current year's price," equal to the average closing price at Anytown Elevator during the period September 15 to November 1, is $3.80, the current year's cash rent would be calculated as follows:

base rent × (current year's price ÷ base price) = current year's rent

$175.00 × ($3.80 ÷ $3.50) = $190.00

Rent equal to the value of a fixed amount of commodity. An example of this method of flexing cash rent is to set the rent equal to the value of a given quantity (bushels, tons, pounds, etc.) of the primary crop. The price used for determining this value would be based on price quotations at a particular location and period available to the operator. For example, if the primary crop were corn, the lease might state the following: "The amount of the cash rent shall be equal to the value of 56 bushels of corn per acre based on the average daily closing price at the Anytown Elevator during the period September 15 to November 1." The location and time period to be used for determining the price should be agreed upon in advance and stated in the lease agreement. With this method, cash rent flexes as crop price changes. (This method is similar to the Fixed Bushel Rent method cited in Part II "Establishing an Equitable Fixed Cash Rental Rate." The method discussed in this section differs by not setting the price at the beginning of the lease period.)

Example:

56 bushels × $3.80 per bushel = $212.80 per acre

Base rent with stated adjustments for prices outside a specified range. Under this approach, the operator and landowner agree on a base cash rent that applies as long as the current year's price is within a specified range. For example, the operator and the landowner might agree on a cash rent of $175.00 per acre if the current year's corn price is in a $3.40 to $3.60 range. For each $0.10 change in the corn price above or below the stated range of prices, the cash rent would increase or decrease correspondingly by a stated number of dollars such as $5.00 per acre. Thus, if the price of corn for the current year (determined in the same manner as for the first two methods) was $3.80 per bushel, the cash rent would be $175.00 + (2 × $5) or $185.00 per acre. If the price of corn for the current year were \$3.10 per bushel, then the cash rent would be \$175.00 − (3 × \$5) or \$160.00 per acre. A variation of this method would allow for an adjustment for any change in the price of corn or other crops above or below the base prices agreed upon.

Minimum base rent with upward adjustments. With this method, the operator and landowner agree on a minimum cash rent for normal yields and a relatively low crop price. For example, both parties might agree that with an average yield of 170 bushels per acre and a \$3.00 per bushel corn price, the cash rent would be \$150.00 per acre. Also, the cash rent would increase by an agreed-upon amount (such as \$5) for each \$0.10 per bushel increase in price. Thus, if the current year's price was \$3.75 per bushel, then the cash rent would be \$150 + (7.5 × \$5) or \$187.50.

Flexing for Yield Only

In some states or for certain commodities crop yields are highly uncertain. In other cases, the crop that is grown may only be fed to livestock, so no relevant market price exists. In such cases producers may prefer to negotiate a flexible lease agreement that bases the annual rent solely on the actual yield achieved. The same general approaches shown above for flexing the rent based on price can be used for flexing on yield, as well.

1. A base yield equal to a long-term average or expected yield can be established, along with a base cash rent. The actual rent is then equal to the base rent multiplied by the ratio of the actual yield to the base yield. For example, the base rent is \$175.00 and the base yield is 170 bushels of corn. If the actual yield is only 150 bushels, the cash rent calculation would be as follows:

$$\$175.00 \times (150 \text{ bu.} / 170 \text{ bu.}) = \$154.41$$

2. The actual yield can be multiplied by a fixed dollar value per bushel or ton, which would be agreed on in advance. For example, the rent for land planted to wheat is set at \$2.00 per bushel of wheat produced. A yield of 75 bushels per acre would result in a rent of \$150 per acre, but a yield of only 35 bushels would result in a rent of \$70 per acre.

It is important to specify in the lease a standard quality grade and/or moisture level to which yields will be corrected. In both cases a minimum rent may be agreed on, especially if the producer is able to purchase crop insurance based on a guaranteed level of production and a fixed indemnity rate.

Flexing for Price and Yield

Ultimately, the value of what a particular farm produces and the operator's ability to pay an equitable compensation to the owner depend on both actual prices and yields. Moreover, market prices may be inversely correlated with yields in a given year. A flexible rent based only on price or only on yield may not accurately reflect the economic return the operator has derived from the farm that year. For these reasons, the most popular flexible lease contracts take into account year-to-year variations in both prices and yields.

This method requires the operator and landowner to agree on a base cash rent tied to a base yield (average or expected yield) and a base expected price for each crop being considered. If only one crop is grown, this is the only crop considered. If several crops are grown and all are considered equally important, all crops may be considered in determining the current year's cash rent. If one crop accounts for most of the income or is planted on most of the land, the cash rent might be adjusted according to changes in price and yield of the main crop even though other minor crops are produced.

The adjustment for yield changes should be based on the yields actually obtained on the particular farm being leased. Sales records, warehouse receipts, or crop insurance yields are reliable evidence of production. If crops have not yet been delivered to a buyer or commercial storage, on-farm bin measurements can be used. Data from combine yield monitors can also be used but is usually not as accurate as direct measurements. Yields should be corrected to a standard moisture level, such as number 2 yellow corn. The lease agreement also should specifically state how the current year's price is to be determined. The time and place to be used for determining the current year's price should be agreed upon at the beginning of the agreement. Some agreements use an average of the local cash market prices available on several specified days during harvest. Others include forward contract prices available on certain dates prior to harvest, so as to better reflect the operator's marketing opportunities. Other possibilities include futures prices (adjusted for basis), FSA posted county prices, USDA average monthly cash prices, or the operator's actual average prices of crops sold.

Assume the same facts as presented in the first discussion of "flexing for crop price only:" base cash rent of $175.00 per acre; base corn price of $3.50 per bushel; and a base yield of 170 bushels per acre. After harvest, the actual corn price turns out to be $3.80 per bushel (average closing price at Anytown Elevator during the period September 15 to November 1). The actual yield is determined to be 200 bushels per acre for the current year.

The formula for the calculation of the cash rent would be as follows:

base rent × (current year's yield ÷ base yield) × (current year's price ÷ base price)

$175.00 × (200 ÷ 170) × ($3.80 ÷ $3.50) = $223.53

Stated percentage of the current crop's value. With this method, the operator and landowner need to agree at the beginning how to determine the current year's yield and price. Both parties also need to agree on the percentage share of the crop to be used for calculating the actual amount of rent. The formula for determining each year's cash rent is:

current year's yield × current year's price × agreed-on percentage

This method results in a sharing of risk similar to that realized under a crop-share agreement, except the owner does not bear any risk for higher input costs.

The owner and operator should discuss and agree on whether crop insurance indemnity payments will be included in the value used to determine the rent. Under a crop-share lease the landowner can purchase crop insurance on his/her share of the crop. By including any crop insurance payments received by the operator in the gross revenue, the owner can indirectly "insure" the cash rent to be received. If insurance payments are included, however, the premiums paid by the operator should be netted out first, even in the years that no indemnities are received.

Minimum base rent plus a bonus. With this method, the operator and landowner agree upon a minimum base rent for the field or farm, and a base gross revenue value. Base gross revenue should reflect an expected yield and price. These values can be determined in the same manner as for a fixed cash rent. This base rent is typically discounted from the "market" rent due to additional risk being passed on to the operator with the flexible nature of the rent. Both parties will have to agree upon what percentage of the increased value over and above the base revenue would be added to the base rent. Again, these details should be worked out at the beginning of the leasing period and included in the lease agreement.

This method operates as follows: Suppose both parties agree on a base cash rent of $175.00 per acre, assuming a normal yield of 170 bushels per acre and a corn price of $3.50 per bushel. The base gross revenue would equal 170 bu. x $3.50, or $595.00 per acre. They also agree the cash rent will increase by 30 percent of any increase in crop value above $595.00 per acre. To illustrate, if the price of corn increased to $3.80 per bushel and the yield turned out to be 190 bushels per acre, the cash rent would be increased to $213.10 per acre. The cash rent bonus value is calculated as follows:

$$\$3.80 \times 190 = \$722.00$$

$$\$722.00 - \$595.00 = \$127.00$$

$$\$127.00 \times 30\% = \$38.10$$

$$\$175.00 + \$38.10 = \$213.10$$

As discussed above, the owner and operator should agree on whether or not to include crop insurance indemnity payments in the gross revenue value.

Flexing Rent on Changes in Cost of Inputs

The cost of variable inputs can change significantly from year to year and cause large swings in profitability. Incorporating a factor that reflects a ratio of the base year's cost of inputs divided by the current year's cost of inputs will help stabilize the bottom line for operators. The important inputs to include in this calculation are seed, fertilizer, pesticides (herbicide, fungicide and insecticide), and diesel and drying fuel. These costs should be expressed in dollars per acre rather than price due to the difference in the level of use of the different inputs. Bear in mind that basing rent on input costs will naturally increase the landowner's interest in how the operator purchases those inputs (for example, he or she may wonder if everything is being done to minimize such costs, such as hedging input prices, buying in quantities sufficient to get discounts, soliciting bids from multiple suppliers to get the best price, etc.). These issues should be discussed by the landowner and operator and should also be addressed in the written lease.

The total cost of seed, fertilizer, pesticides and diesel and drying fuel per acre must be calculated for the current year and the base year. Dividing the current year's input costs by the base year's input costs adjusts the base rent up or down depending on the change in these input costs.

If the rent is to be adjusted on yield, price and input costs; the formula for the calculation of cash rent would be as follows:

base rent × (current year's yield ÷ base yield) × (current year's price ÷ base price) × (base year's input costs ÷ current input costs)

For the “base rent plus bonus” approach to setting a flexible cash rent, the base gross revenue can be set equal to the operator’s actual cost of production rather than the expected revenue. In this way the bonus rent becomes a share of the operator’s profits, so the lease is in effect a profit-sharing agreement. A charge for the operator’s labor and management, as well as base rent, should be included in the estimate of production costs. This type of agreement shifts some of the risk of unexpected increases in input costs such as fertilizer or fuel to the landowner. It also requires the operator to accurately determine the production costs for that particular land unit and communicate them to the owner. This will require sound, verifiable farm production and financial records be kept by the operator. This type of agreement also requires some ability on the part of the landowner to audit and verify this information.

Incorporating Flexible Provisions in a Written Lease

If the parties agree to use some form of flexible cash rent, they should document the provisions in the written lease agreement. Whatever the method used for flexing cash rent, the lease should contain a detailed explanation of the method. Including one or two examples with different prices and yields is helpful, as well.

PART IV

Putting the Agreement in Writing

While many parties still rely on a verbal agreement and a handshake, a farm lease should be in writing to clarify each party’s rights and obligations and to ensure enforceability of the lease. In fact, many states have a “statute of frauds law” that requires a lease to be in writing and signed. A verbal lease is at risk of being unenforceable in such states because it fails to comply with the statute of frauds law. But there are other good risk management reasons for putting a lease in writing. A written lease offers these advantages for both parties:

1. Provides evidence of a legally enforceable agreement.
2. Encourages discussion and a better understanding of lease terms and options.
3. Minimizes the potential of conflict and misunderstanding by clarifying each party’s rights and obligations.
4. Foresees problems that could arise and establishes remedies to resolve problems and avoid litigation.
5. Offers a guide for heirs and successors if either the owner or operator dies.

Using an Attorney

While it’s possible to use a template for a farm lease, the best risk management approach is to use an attorney to create or review a farm lease for a particular situation. An attorney can adapt a lease to the needs of the parties, confirm that the lease meets all applicable legal requirement for the state where the property is located, draft a Memorandum of Lease if the parties desire one, and ensure that the parties properly execute the written agreement. The additional cost of using an attorney is likely to be minimal in comparison to the protection it provides to both parties.

What terms should be in a lease agreement?

At a minimum, a lease should include several basic terms: the names of the parties, a description of the property being rented, the beginning and ending dates, renewal and termination provisions, the amount of rent, and how and when rental payments are due. These minimal provisions alone, however, do not address all issues that arise with leasing. Additional terms can provide guidance on how the land is to be used and can anticipate problem areas and solutions. Here's a summary of provisions to include in a cash farm lease agreement.

The parties. A lease should state the correct legal names for individuals and should include spouses and others who co-own the land or operation. If the operation is a business entity or trust, a lease should use the correct legal name of the entity or trust.

The property. An accurate identification of the property is critical, and the lease should state the gross acreage amount. The total acreage should align with Farm Service Agency numbers, if applicable. If a landowner wants to reserve areas or improvements, the lease should clarify the reservations and state that they are not included in the agreement. Likewise, the lease should describe all buildings, structures, or improvements included in the leasing agreement.

Time period of the lease. A lease should state its beginning and ending dates. One-year terms have been common for farm leasing, but many parties also use multi-year leases with a time period of three or more years. Consider the timing of potential cropping systems when setting starting and ending dates to avoid having a crop in the ground when the lease terminates.

Rental amount and payment. A lease should include the total rental amount and due dates for rental payments. It is common to divide rental payments into installments and align them with the crop cycle so that final payment is due after harvest. A late payment provision can establish a fee, either a set amount or a percentage, if a payment is not made by a certain time after its due date.

Renewal. There are three different approaches to renewal of a lease.

1. The first is no renewal, meaning the lease simply terminates on its ending date. Under this option, continuing the leasing relationship requires entering into a new lease.
2. A second approach is to allow the possibility of renewal by stating that the lease will renew if the parties agree to a renewal in writing by a stated date before the end of the lease term. If the parties do not agree on renewal by that date, the lease terminates on its ending date. This option gives the parties an opportunity to renegotiate certain lease terms before deciding whether to renew the lease, and any new or revised terms must be stated in the written renewal agreement.
3. A third option is to allow the lease to automatically renew and continue from year-to-year after the end of the lease term unless one of the parties provides a written notice of termination by a stated date before the lease ends. This option requires the parties to take action only if they want to end the leasing relationship; otherwise, the lease automatically renews and continues from year-to-year.

Land use. A lease should outline the permissible uses of the property, and if applicable, any prohibited uses. Typical practice for a cash lease is to allow the operator to determine the types and rotations of crops to be grown on the property, and a lease should state whether there will be any exceptions to this typical practice.

Operation and maintenance provisions. A lease can help avoid future conflicts by clarifying each party's obligations for the property and operation. The lease should address who is responsible for general maintenance, existing capital improvements, noxious weeds, tree and vegetation removal, access points, and drainage improvements. It should also outline the operator's responsibilities to maintain soil health, minimize erosion, and comply with all applicable licensing, certification, and environmental laws. For the landowner, the lease should summarize duties to pay taxes, make necessary repairs, and address the landowner's rights to enter and make improvements on the property. The parties should also address how to manage insurance, government program participation, hunting and recreational uses, eminent domain, and mineral development.

General terms. Several typical legal terms to include in a farm lease are procedures for amending, indemnification from claims against each party, whether the lease continues upon a transfer of the property or death of a party, subleasing rights, signing and recording a Memorandum of Lease, procedures for default and cure, and how to resolve conflicts.

Additional terms to consider. Geographic differences in farming and the individual preferences of the leasing parties can raise the need for additional leasing terms. The following describes several common additional terms. These terms are not included in the sample Fixed Cash Farm Lease NCFMEC-01A provided in aglease101.org. If the leasing parties want to include additional terms, they should consult an attorney to develop the provisions and incorporate them into the leasing agreement.

1. **Flexible cash rent.** If the parties agree to use some form of flexible cash rent, the lease should clearly describe the method for determining the flexible rental payment. Include the formula the parties will use to calculate the rental amount and sources for data to be incorporated in the formula. Refer to Part III above for an explanation of flexible cash rent methods.
2. **Yield data.** A yield data provision requires a tenant operator to share yield data with the Landowner. This provision could state that the tenant operator must share the data at a certain point in time, such as within 30 days of harvest, or require sharing only upon a request by the landowner. The provision can also mandate that the data is sufficient to meet requirements for crop insurance documentation and participation in USDA commodity programs.
3. **Capital improvements**. A capital improvements provision details how the parties will make capital improvements to the property. If the parties have agreed to an improvement such as subsurface drainage or fencing, for example, the provision should describe the improvement, how the parties will pay for the improvement, whether either party will provide labor, maintenance and repair of the improvement, and recoupment provisions for the operator if there is an early termination of the lease.
4. **Soil tests.** A farm lease typically requires a tenant operator to maintain soil health and fertility. An additional provision could help ensure soil health by establishing fertility benchmarks at the beginning of a lease and requiring regular soil testing throughout the leasing period. Provisions could address the required frequency of tests, nutrients to be measured, who is responsible for conducting and paying for tests, sharing of soil test results, and remedies for addressing deficient fertility levels.
5. **Water use.** Depending upon the farming activities and geographic location of a leasing agreement, a tenant operator may seek access to water. If so, the lease should outline the details of the water rights conveyed in the lease, addressing factors such as quantity, rate, point of diversion, and place and type of use. Water laws vary significantly from state-to-state, and legal assistance from an attorney in the applicable state is necessary to ensure compliance with water laws.
6. **Compensation for crop expenses.** This provision requires reimbursement to the operator for field work and other costs incurred for crops that will be harvested the year following lease termination. The provision should identify a method for determining the compensation, such as using current custom rates for labor and actual costs for materials.
7. **Conservation.** Conservation practices such as planting cover crops, rotating crops, using no-till, or maintaining buffers are gaining interest in farm leasing agreements. Conservation programs that assist with or reimburse for such practices are available. If requiring certain practices, the lease should state the agreed upon practices and address how to manage costs for the practices. For participation in conservation programs, the parties should consider addressing program selection, participation requirements, and receipt of payments.

8. **Arbitration.** While mediation is a common method for resolving lease conflicts and is the method outlined in the sample Fixed Cash Farm Lease, arbitration is another alternative. Mediation attempts to bring the parties to a mutual agreement while preserving their right to litigate an issue in court. Arbitration submits a conflict to an arbitrator (or panel of arbitrators) for a decision and usually requires that the decision be binding and cannot be appealed to a court of law. An arbitration provision should outline how the parties will select an arbitrator, how to cover the costs of arbitration, and whether the arbitration decision is final and binding on the parties.

The Memorandum of Lease

Many states allow the parties to a lease to record a "memorandum of lease" in the local property records. When recorded, this legal instrument establishes a record of the leasing agreement and serves as a notice to other parties that the property is subject to a farm lease. Although state laws vary, a memorandum of lease typically only includes the property, names of the parties, length of the term of the lease, and any renewal rights. An attorney in the applicable state can prepare and record a memorandum of lease for parties that desire to document the leasing agreement.

Proper Execution of the Lease

It is especially important to ensure that the parties follow state law requirements for signing a lease. State laws vary, and could require the parties to have witnesses, a notary, or both present at the time of signing a lease. Using an attorney will ensure that the parties meet all legal requirements for properly executing the agreement.

Worksheets

Worksheet 1. Landownership Costs as Basis for Fixed Cash Rent

Crops Grown:		**Acres:**		
Item	**Per Acre Value**		**Rate**	**Annual Charge**
Land	$_______	×		
Interest		×	______ %	$_______
Real Estate Tax		×	______ %	$_______
Land Improvements				
Tiling	$_______	×	______ %	$_______
Surface drainage	$_______	×	______ %	$_______
Conservation practices	$_______	×	______ %	$_______
Liming	$_______	×	______ %	$_______
Total Cost				$_______

Worksheet 2. Converting Landowner's Net-Share Rent to Cash Rental Rate[1]

Landowner's Share of Gross Crop Value

Crops	Acres	Yield per Acre[2]	Percent of Crop	Tons or Bushels	Price[3]	Total Value	Per Acre Value
Corn	_____	_____	_____ %	_____	$_____	$_____	$_____
Soybeans	_____	_____	_____ %	_____	$_____	$_____	$_____
Wheat	_____	_____	_____ %	_____	$_____	$_____	$_____
Other Income[4]	_____		_____ %		$_____	$_____	$_____
Totals (A)	_____					$_____	$_____

Landowner's Share of Shared Expenses

Crops	Landowner Share	Seed[3]	Fert. & Lime[3]	Pesticides[3]	Harvest/ Drying[3]	Total Cost	Cost/Acre
Corn	_____ %	$_____	$_____	$_____	$_____	$_____	$_____
Soybeans	_____ %	$_____	$_____	$_____	$_____	$_____	$_____
Wheat	_____ %	$_____	$_____	$_____	$_____	$_____	$_____
Totals (B)	_____ %	$_____	$_____	$_____	$_____	$_____	$_____

Landowner's Crop Rent (A−B)	$_______
Less risk shifted to operator[5]	$_______
Net landowner's share rent per acre	$_______

[1] If whole farm leased on a cash-rent basis, list all crops grown, income and shared expenses from each crop
[2] Use average yields, allowing for both good and bad years. Incorporate trend in yields
[3] Use current prices and costs.
[4] USDA payments, crop stover, etc.
[5] Example risk value is 5% of total crop receipts. This number will vary depending on the production risk in your area.

Worksheet 3. Amount of Cash Rent Operator Can Afford to Pay[1]

Gross Value of Crops Produced					
Crops	Acres	Yield per Acre[2]	Price[3]	Total Value	Per Acre Value
Corn	______	______	$______	$________	$________
Soybeans	______	______	$______	$________	$________
Wheat	______	______	$______	$________	$________
Other Income[4]	______		$______	$________	$________
Totals (A)	______			$________	$________

Total Variable Costs[3]				
Crops	Acres	Variable Costs per Acre[2]	Total Variable Costs	Per Acre Value
Corn	______	$________	$________	$________
Soybeans	______	$________	$________	$________
Wheat	______	$________	$________	$________
Totals (B)	______		$________	$________

Total Fixed Costs, Labor, and Management[3]		
Crop machinery: machinery value per acre	$________	
Depreciation for ___ years	$________	
Interest on average investment at ____ percent	$________	
Taxes at ____%	$________	
Insurance at ____%	$________	
(C) Total machinery fixed costs		$________
(D) Labor charge[5] (____ hrs/ac @ ____/hr)		$________
(E) Management charge (____% of total crop values)		$________
(F) Total production costs (B+C+D+E)		$________
(G) Amount that can be paid for rent per acre (A-F)		$________

[1] If whole farm leased on a cash-rent basis, list all crops grown, income from each crop, and variable expenses for each crop.
[2] Use average yields, allowing for both good and bad years. Incorporate trend in yields.
[3] Use current prices and costs. Variable costs include fuel, oil, repairs, fertilizer, herbicide, insecticide, interest on operating costs, custom hire, drying, insurance, and miscellaneous costs.
[4] USDA payments, crop stover, etc.
[5] Labor expense or charge may be included in variable expenses.

Worksheet 4. Percent of Land Value Approach

Crops Grown:		Acres:	
Item	Per Acre Value	Rate	Annual Charge
Land	$________	×	
Typical Rent to Value		× ______%	
Total Cost or Desired Return			$________

Worksheet 5. Cash Rent Equal to a Percent of Expected Gross Revenue

Crop	Expected Yield	Expected Price	Expected Gross Revenue	Rent as % of Gross Revenue	Cash Rental Rate
Corn	________	$________	$________	________%	$________
Soybeans	________	$________	$________	________%	$________
Wheat	________	$________	$________	________%	$________
Weighted Average: Based on Corn: _____ acres, soybeans: _____ acres, wheat: _____ acres					$________

Worksheet 6. Dollars per Bushel of Production

Crop Grown:		Acres:	
Item	Average Yield[1]	$ per Bushel[2]	Annual Charge
________________	________	× $________	$________

[1] Certain states have a productivity rating that may be used

[2] Based on a percent of observed historical rents

Worksheet 7. Fixed Bushel Rent

Crop Grown:		Acres:	
Item	Bushel Rent[1]	Price per Bushel	Annual Charge
________	________	× $________	$________

[1] Based on historic rent as a percent of revenue. Based on an equitable crop share percentage (landowner paying no expenses except land) with a discount for production risk.

Fixed Cash Farm Lease Example NCFMEC-01A

PLEASE READ: This form offers a starting point for a fixed cash farm lease and does not replace the need for legal advice. <u>This lease does not include provisions for a flexible cash rent; parties desiring a flexible rent should consult with an attorney for specific flexible rent language</u>. Be aware that state laws vary and can have specific legal requirements for farmland leases. Also note that individual factors can raise unique legal and economic issues in a leasing situation. Some terms in this lease offer different options that require the parties to choose the preferred option. **Each party should refer to an agricultural attorney and accountant in the applicable state** to review the lease agreement and its options. Also refer to an attorney to confirm that the lease follows state law and that the parties meet state legal requirements for signing the lease.

For economic information on leases and an explanation of terms in this sample lease, refer to *Fixed and Flexible Cash Rent Lease Agreements For Your Farm*, NCFMEC–01 at aglease101.org.

FIXED CASH FARM LEASE

I. Parties

This lease agreement ("Lease") is entered into this _____ day of ______________________ 20____ between the following parties:

"Landowner"

____
Exact legal name(s) of individual(s) or entity who owns the Property

____
Exact legal name(s) of individual(s) or entity who owns the Property

Landowner's address:

____

____

____

____

"Operator"

____
Exact legal name(s) of individual(s) or entity who owns the Operation

____
Exact legal name(s) of individual(s) or entity who owns the Operation

Operator's address:

____

____

____

____

II. Lease Property

Landowner leases to Operator, to occupy and use only for purposes consistent with this agreement, the following "Property" located in ____________________________________ County, State of ___________________________________, and containing approximately _______________ gross acres and described as follows:

(Enter parcel numbers, legal description, or similar identifying information) ☐ *Check this box if the legal description is attached to this lease.*

with the exception of the following property:

The Operator may also use the following structures, improvements and housing located on the Property for the stated purposes:

Structure, improvement or housing	*Purpose of use*

III. Lease Term

The initial term of this Lease is for ___________________ year(s), beginning on the __________ day of ___________________________________ 20_______ and ending on the __________ day of ___________________________________ 20_______.

IV. Rental Amount and Payment

A. Rental acres and rates. Operator agrees to pay the total annual cash rent below for the following rental acres:

				Total
Cropland		___________acres x $____________/acre		$_____________
Other land:____________________		___________acres x $____________/acre		$_____________
Other land:____________________		___________acres x $____________/acre		$_____________
Structures and improvements		____________________________________		$_____________
Other		____________________________________		$_____________
			Total annual cash rent	$_____________

B. Payment due dates. The total annual cash rent shall be paid as follows:

$ _________________ on or before the __________day of ______________________ 20_____

$ _________________ on or before the __________day of ______________________ 20_____

$ _________________ on or before the __________day of ______________________ 20_____

$ _________________ on or before the __________day of ______________________ 20_____

C. Late payments. If Operator does not pay rent when due, Operator agrees to pay interest on the amount of unpaid rent at the rate of _________ percent per annum from the due date until paid.

D. Payment address. Operator shall send payments to Landowner at the address listed in Part I, unless Landowner indicates an alternative payment address as follows:

____

E. Liens. (*If authorized by applicable state law*). Operator acknowledges that pursuant to state law, Landowner may file and perfect a lien upon crops grown under this Lease to secure amounts due under this Lease, and that Operator may execute against such crops in accordance with state law.

V. Lease Termination and Renewal

Termination and renewal (choose only one option by checking the box):

☐ This lease shall terminate on its ending date, with no option for renewal.

☐ This Lease shall terminate on its ending date <u>unless,</u> at least _______days prior to the ending date, Landowner and Operator agree in writing to renew the Lease.

☐ This Lease shall <u>continue</u> from year-to-year <u>unless</u> either party provides a written notice of termination to the other party at least _______days prior to the end of the applicable lease term.

VI. Land Use

A. Use of Property. Except as otherwise provided in this Lease, Operator shall use the Property exclusively for farming and agricultural production purposes, including related activities necessary to conducting such operations on the Property.

B. Crops. Operator shall determine the crops to be grown on the Property, with the following exceptions:

VII. Operation and Maintenance

A. Operator agrees as follows:

1. **Operation inputs.** To pay for or furnish all labor, machinery, inputs and other costs of the farming operation.
2. **General maintenance of Property:** To maintain the Property and its improvements in as good a condition as it was at the beginning of this Lease, except for normal wear and damage from causes beyond Operator's control.
3. **Soil health.** To control soil erosion and maintain soil health and fertility on the Property. Operator agrees to implement Natural Resource Conservation Service best management practices to the extent practicable.
4. **Pesticides, herbicides and fertilizers.** To comply with all licensing and certification requirements for pesticides, herbicides, fertilizers and similar chemicals or materials used on the Property and to transport, store, handle and apply such materials in accordance with applicable laws, permits and labels. Operator shall not exceed a manufacturer's recommended application levels for such materials and shall not dispose of any wastes or packaging on the Property. Upon request, Operator shall provide Landowner with a written list of the names and amounts of pesticides, herbicides, fertilizers, other chemicals or seeds used on the Property.
5. **Manure application.** *Choose one option*. ☐ Operator may not apply manure on the Property. ☐ Operator may apply manure on the Property in accordance with an approved Nutrient Management Plan and applicable laws and regulations.
6. **Environmental compliance and cleanup.** To conduct all operations on the Property consistent with local, state, and federal environmental laws and regulations and to bear sole responsibility for any violations of such laws. Operator shall indemnify Landowner for any costs of environmental cleanup and restoration as well as any penalties, fines, judgments or other amounts incurred by Landowner as a result of a release or discharge.
7. **Noxious weeds.** To control noxious weeds and use diligence to prevent noxious weeds from going to seed on the Property, including along roadways, fence rows, on waterways and on

wheat stubble. During the Lease term, all treatments and costs for noxious weed management on the Property shall be the Operator's responsibility.

8. **Crop residues.** Not to burn or remove straw, cornstalks or other residues on the Property.

9. **Trees.** To remove fallen trees and branches on the Property and not to remove live trees for personal use or sale without the written agreement of Landowner.

10. **Drainage improvements.** To keep in good repair all open ditches, subsurface drainage tiles and inlets and outlets of drains and waterways; preserve established watercourses including grassed waterways, ditches, and field borders; and refrain from any practices that will injure such structures or violate applicable laws, regulations or government program requirements.

11. **Capital improvements.** Not to make capital improvements on the Property such as installing new drainage improvements, irrigation systems, fencing, conservation structures, seeding hay or pasture, unless agreed to by Landowner in a separate written agreement.

12. **Additional structures.** Not to construct or permit to be constructed any non-removable structure or building on the Property.

13. **Livestock.** Not to allow any livestock to be on any tillable land on the Property unless agreed to in writing by Landowner.

14. **Damages.** Upon termination of this Lease, to pay Landowner reasonable compensation for damages to the Property for which Operator is responsible, other than ordinary wear and tear.

B. Landowner agrees as follows:

1. **Necessary repairs.** To pay for labor and materials for necessary repairs to capital improvements on the Property.

2. **Loss replacement.** To replace or repair as promptly as possible any building or structure included in this Lease that is destroyed or damaged by fire, flood, or other cause beyond the control of Operator, or to make rental adjustments in lieu of replacements and repairs.

3. **Removable improvements.** To allow Operator to make, at Operator's expense, minor improvements of a temporary or removable nature that do not harm the condition or appearance of the Property. Landowner shall allow Operator to remove such improvements during the Lease period and within ______ days thereafter, provided Operator leaves that part of the Property from which improvements are removed in good condition. Operator shall have no right to compensation for improvements that are not timely removed.

4. **Taxes.** To pay the real property taxes for the Property.

C. Landowner and Operator both agree as follows:

1. **Insurance.** Landowner agrees to carry general liability insurance on the Property. Operator agrees to maintain applicable workers' compensation insurance and to carry liability insurance at a minimum level of $____________________ to reasonably insure the operation for general liability and property damage, and an additional level of $____________________for chemical and environmental liability.

2. **Government programs.** Operator shall determine the extent of participation in government programs for commodity support. Landowner shall execute any necessary government program documents for Operator's participation and Operator shall receive all payments from program

participation. Participation in a government or private programs for conservation enhancement or similar purposes shall be agreed to in writing by both parties.

3. **Notice of environmental hazards.** Both parties shall immediately notify one another upon discovering or receiving notice of a discharge or violation of a federal, state, or local environmental law relating to hazardous or toxic materials on the Property.
4. **Landowner improvements.** Landowner may make any improvements to the Property that do not prohibit Operator's rights under this Lease.
5. **Right of entry.** Landowner, its agents, employees and assigns may enter the Property at any reasonable time to: a) consult with Operator; b) make repairs, improvements, and inspections; or c) work ground, plant, fertilize or engage in other customary seasonal work prior to the termination of the Lease, but such work shall not interfere with Operator's ability to conduct farming activities. Authorized entry by Landowner, its agents, employees and assigns shall not constitute an eviction or termination of the Lease.
6. **Hunting and recreational uses.** *Choose one option:* ☐ Landowner reserves all hunting, fishing and recreational rights on the Property and in exercising such rights, Landowner shall not interfere with Operator's farming activities. ☐ Landowner grants the following hunting and recreational rights to Operator:

7. **Minerals, oil and gas, and renewable energy development.** Landowner reserves the right to all minerals, oil and gas, and renewable energy resources on the Property. Landowner and authorized third parties may enter the Property to develop such resources and install pipelines, improvements, power lines and structures necessary to access and develop the resources. Landowner agrees to reimburse Operator for all actual damages to Operator's crops that occur and where applicable, to adjust the gross rental acres stated in Part II of this Lease for all acreage no longer available for Operator's production as a result of such activities.

VIII. General Terms of Lease

A. **Amendments and alterations.** Amendments and alterations to this Lease shall be in writing and signed by the Landowner and Operator.

B. **Indemnification.** Both parties agree to defend, hold harmless, and indemnify one another from all claims, demands, or causes of action, including all reasonable expenses incident to any proceedings, for any injury to or death of any person or loss of or damage to any property arising from the activities of the other, unless such claims or harms resulted from the negligence, omission, intentional act or breach of contract by the other party, its agents, employees and assigns.

C. **No partnership intended.** Nothing in this Lease shall be construed to create a partnership, joint venture or any relationship between the parties other than Landowner and Operator.

D. **Not to obligate other party.** Neither party shall pledge the credit of the other party for any purpose without the consent of the other party. Neither party shall be responsible for debts or liabilities incurred, or for damages caused by the other party.

E. Transfer of property. If Landowner should sell or otherwise transfer title to the Property, such transfer will be subject to the provisions of this Lease.

F. No right to sublease. Operator shall not lease or sublet any part of the Property or assign the Lease to any persons or entities without Landowner's written consent.

G. Binding on heirs. This Lease shall be binding upon the heirs, executors, administrators, and successors of both parties, except as provided by mutual written and signed agreement.

H. Severability. This Lease documents the entire agreement between the parties. If any term of this Lease or its application is determined to be invalid or unenforceable, the remainder of this Lease shall remain valid and enforceable.

I. Memorandum of Lease. (*If authorized by applicable state law*). *Check this box if the parties agree to this provision.* ☐ At the time of signing this Lease, Landowner and Operator agree to execute and record a Memorandum of Lease according to state statutory requirements, and to share equally in the cost of preparing and recording the Memorandum of Lease.

J. Default and cure. If either party breaches the terms of this Lease, the non-breaching party may send a written notice of default to the breaching party. If the breaching party does not take reasonable action to cure the default within ____ days of receiving the notice, the non-breaching party may terminate the Lease and the parties shall be subject to all reimbursements due under this Lease or any amendments or additions to the Lease. In lieu of terminating the Lease, Operator may remedy the default by providing necessary materials and performing or hiring labor to correct the default and may deduct the costs of a default cure from rental amounts due to the Landowner.

K. Mediation. Any differences between the parties as to their rights or obligations under this Lease that are not settled after making a good faith effort to reach a mutual agreement shall be submitted for mediation to an agreed upon mediator knowledgeable in the subject matter of the dispute, with costs to be shared equally between the parties. If mediation does not resolve the dispute, the parties may pursue their claims in a court of law.

IX. ADDITIONAL LEASE TERMS

Landowner and Operator also agree to the following additional terms for this Lease. For a discussion of additional lease terms, refer to the section on "What terms should be in a lease agreement?" in *Fixed and Flexible Cash Rent Lease Agreements For Your Farm*, NCFMEC–01 at aglease101.org. If there are no additional lease terms, write "none."

Additional lease terms, continued.

Signed this ______ day of __________________________ 20________ by:

NOTE: REFER TO AN ATTORNEY TO CONFIRM LEGAL REQUIREMENTS FOR SIGNING A LEASE, AS STATE LAW MIGHT REQUIRE WITNESSES OR NOTARIZATION.

______________________________	______________________________
Landowner	***Landowner***
By: ______________________________	*Its:* ______________________________
Name of Landowner's authorized agent	*Title of Landowner's authorized agent*
______________________________	______________________________
Operator	***Operator***
By: ______________________________	*Its:* ______________________________
Name of Operator's authorized agent	*Title of Operator's authorized agent*