

CROP SHARE LEASE AGREEMENTS

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This Factsheet is one of a series on leasing agreements. The first Factsheet *Land Lease Arrangements*, Order No. 01-065 details the legal, tax and management considerations of leasing land.

Leasing and renting land is a common practice in rural Ontario. The types of rental arrangements for cropland vary widely throughout the province, as do the relationships between landlords and tenants. What is desirable or fair for one particular landlord-tenant relationship is not acceptable for others. The purpose of this Factsheet is to help tenants and landlords develop fair crop share lease agreements and assist them in making sound decisions. A sample crop share lease can be found in Appendix A.

SECTION 1 — THE BASICS OF A LEASE AGREEMENT: LEGAL AND TAX ISSUES

HUMAN COMPONENTS OF A SUCCESSFUL LEASE

Any form of business agreement requires a good deal of mutual respect and trust. Leasing land is no different. To be successful the lease arrangement must satisfy both the landlord and the tenant. Before entering into a lease the landlord and the tenant should consider more than just price. The compatibility of the landlord and the tenant and the fairness of the lease should be considered. The following is a list of characteristics commonly found in successful lease agreements:

- **Compatibility** — Can you get along and discuss differences?
- **Honesty** — Do you trust the person you're dealing with?
- **Clarity** — Do you both know what the terms of the lease are and is in writing?
- **Equitable Terms** — Are the terms fair to each party?
- **Flexibility** — Can you adjust the lease if changes occur?
- **Suitability** — Does the lease fit the crop and encourage good agricultural practices?

IS A CROP SHARE LEASE THE BEST ARRANGEMENT FOR YOU?

The high capital cost of land makes leasing an attractive alternative to ownership. There are advantages and disadvantages to leasing farmland to consider before entering into a leasing agreement. *Table 2* lists the advantages and disadvantages of a crop share lease arrangement.

ADVANTAGES OF A WRITTEN AGREEMENT

While the majority of farm lease agreements are verbal in nature, there are advantages to putting an agreement in writing.

- The greatest benefit is a clear understanding of the terms of the lease agreement. Even though a verbal lease agreement is a valid form of contract, it is exceedingly difficult to prove what the terms are in the event of a disagreement. A written lease provides both the landlord and the tenant with a record of what they have agreed to.
- It makes the expectations and responsibilities of both parties clear and, if a dispute arises it can prevent costly legal action by providing for alternatives to a court proceeding.
- It provides a valuable guide to heirs if the landlord or tenant should die.
- It provides documentation for tax purposes.

A written agreement is not a sign of distrust, but rather a desire of both parties to have a clear understanding of the agreement they are making.

TABLE 1. Summary of Required, Recommended and Optional Lease Items

WRITTEN LEASE AGREEMENTS		
Required Items	Recommended Items	Optional Items
Names and Addresses of Tenant and Landlord	Right of Inspection and Removal of Crops — landlord has the right to enter the rented property, the tenant has the right to remove the crops. Also deals with compensation for the tenant and the incoming tenant rights	Resolving Differences — an arbitration clause describes how disagreements that the tenant and landlord cannot resolve themselves, would be dealt with. The most common practice is appointing an arbitrator
Description of Property to Be Rented — includes common legal description and specifies buildings or areas to be excluded	Transfer of Property — landlord and tenant should discuss their expectations if/when the landlord sells the farm property to a new owner during the term of the lease	Production Practices and Management Decisions — decisions the landlord wants carried out by the tenant. For example: <ul style="list-style-type: none"> • cropping decisions • use of manure, fertilizer and chemicals • crop and revenue insurance • delivery and sale of crop
Term and Renewal of the Lease — when it starts, how long it lasts and, when and how the lease can be renewed	Termination of the Lease — clause that clearly spells out how the lease can be terminated	Income Support Payments, Subsidies and Reimbursements — a clause clearly specifying who will receive government or marketing agency payments
Rent Payable — how much, how it is calculated and when it is to be paid	The Use of the Land — clause that states how the tenant is going to use the land	Compensation for Repairs to Buildings, Fences, and Improvements — who is responsible for repairing buildings, fences, and other improvements, and how the expenses will be shared
	Environment Matters — clause addressing issue of environmental policies and responsibilities	Compensation for Property Damages — the party who has suffered the loss should receive any compensation payable
	Insurance — clause allows landlord and tenant to identify who will be responsible for insurance coverage	Rights of First Refusal — the landlord may include an option for the tenant to purchase the property by matching the offer the landlord receives from a third party
	Rights to Assign or Sublet the Lease — a clause that prevents the tenant from subletting	Option to Purchase — a clause giving the tenant the option to purchase the leased lands
		Municipal Zoning Restrictions — the tenant enters into a farm lease with the express intention of conducting agricultural operations; thus, it is important that the landlord provide an assurance to the tenant that the lands are properly zoned for such use

THE COMPONENTS OF A LEASE AGREEMENT

A written lease can be as simple or detailed as the landlord and the tenant wish. *Table 1* and the following section summarize the information to consider in drawing up a lease agreement. These are categorized under 3 headings:

- **Required** — all leases must contain this information
- **Recommended** — items that every landlord and tenant should consider including in the lease agreement
- **Optional** — items that add clarity to the lease agreement and provide discussion points for the

landlord and tenant as they formulate the lease agreement.

TAX IMPLICATIONS OF LAND LEASES

The tax implications of leasing are discussed in detail in the OMAFRA Factsheet *Land Lease Arrangements*, Order Number 01-065.

Loss of Rollover and \$500,000 Capital Gains Exemption

Landlords can inadvertently disqualify themselves from being able to use the following 2 major tax provisions.

1. The ability to use a tax deferred rollover on the transfer of land to children (called a rollover)
2. The \$500,000 capital gains exemption on their land.

This can happen because Canada Customs and Revenue Agency (CCRA) do not consider many types of leasing arrangements farming. Even a share crop lease, where a percentage of the crop is given to the landowner as payment for the land rent, does not meet their definition. As a result some leasing arrangements can cause a landowner to lose their farming status and the ability to use the tax provisions. While these cases are not widespread and can often be remedied, consult with your accountant on how a lease might affect your individual situation.

Goods and Service Tax (GST)

Rent, which is paid by way of share of the crop, is not subject to the goods and service tax. The treatment of cash rents for GST purposes depend on whether the landlord is registered with Canada Customs and Revenue Agency to collect and remit the GST. If a landlord is not registered they are not required to charge the tax on the rent. If the landlord is registered, then the GST must be charged on cash rentals. The tenant is able to claim an Input Tax Credit on the tax paid.

Farmland Property Tax Program

The Farmland Property Tax program enables eligible farm properties to be taxed at 25% of the municipal residential/farm tax rate. The farm residence, and 1 acre of land surrounding it, is taxed as part of the residential class. To be eligible for the reduced rate a property must be part of a farming business with gross farm income of \$7,000 or more, and must have applied for and received a valid farm business registration number. A landlord who is not registered can still obtain the reduced tax rate if the tenant has a valid farm business registration number. For further information contact AGRICORP toll free at 1-866-327-3678 or visit the Web site at www.farmbusreg.com.

SECTION 2 — DEVELOPING CROP SHARE LEASE ARRANGEMENTS

CROP SHARE LEASE AGREEMENT

Crop share leases are not as common as the cash or flexible cash rental leases in Ontario. Traditionally, crop share agreements have been based on a 1/3–2/3 or 1/4–3/4 split of the crop between the landlord and the tenant. Typically the landlord pays the property taxes while the tenant supplies all the machinery, labour and crop inputs. Receiving part of the crop as payment for rent is not considered farming income by Canada Customs and Revenue Agency (CCRA). However, if the landlord shares the cost of inputs with the tenant the crop share is recognized as farming income. Landlords who wish to maintain their farming status should consider this type of crop share arrangement. **In this Factsheet “crop share” refers an arrangement where the landlord shares input costs with the tenant.**

Table 2 outlines the advantages and disadvantages of crop share leases.

ESTABLISHING A CROP-SHARE ARRANGEMENT

Establishing an equitable crop share arrangement can be accomplished by following 5 important principles:

1. **Share variable expenses that increase yields in the same percentage as the crop is shared.** Variable inputs are those used in production, such as seed, fertilizer, herbicides, insecticides, fuel, harvesting, drying, and hauling. Some inputs, such as fertilizer, are directly yield increasing. Sharing these costs in the same percentage as the crop encourages the parties to use optimal amounts of the inputs so as to maximize total net returns.

TABLE 2. Crop Share Leases Advantages and Disadvantages

Advantages	Disadvantages
Compared to cash rents, less operating capital is “tied up” by the tenant because the landlord is sharing costs.	Landlord’s incomes vary with yield and price variation and changes in shared production input costs. This may be a particularly important concern for retired landlords.
Management may be shared between an experienced landlord and tenant, resulting in more effective decisions.	Accounting for shared expenses must be maintained.
Sales of crops may be timed for tax management. Likewise, purchased inputs may be timed to shift expenses for tax purposes.	The need for tenant and landlord to discuss annual cropping practices and to make joint management decisions is greater than with a cash rent arrangement.
Risks due to low yields or prices, as well as profits from high yields or prices, are shared between the two parties.	As prices or technology change, the lease should be reviewed for fairness. Sharing arrangements may need to be changed.
The income received from a crop share agreement by the landlord is eligible for NISA and is consider farming income, which may be important for a landlord who wants to maintain farming status for tax advantages.	The results of a tenant’s superior management are shared with the landlord.

If yield increasing inputs are not shared in the same ratio as the crop is split, the tenant loses the financial incentive to maximize crop yield by adding additional crop inputs. For example, suppose a crop was shared on a 1/3–2/3 basis and the tenant was paying for 100% of the fertilizer. If an additional \$10/acre of fertilizer generates an additional \$14 of revenue it makes sense to do so. However, if the tenant is only receiving 2/3 of the revenue, which is \$9.80, there is no financial incentive. Splitting the fertilizer cost 1/3–2/3 between the landlord and tenant maintains the financial incentive to maximize yield.

2. **Adjust crop share arrangements to reflect the affect new technology has on costs and returns.** When one input is substituted for another, such as chemical weed control for cultivation, a determination of who will pay for it must be made. The answer to this question depends on the type of inputs involved:
 - Yield-increasing inputs — share in the same percentage as the crop is shared
 - True substitution inputs (where one input replaces another) — the party responsible for the item in the original lease pays
 - Inputs that are both yield increasing and substitution. — negotiated in the lease
3. **Share total returns between landlord and tenant in the same proportion as they contribute resources.** If a landlord and tenant both contribute 50% of total resources then a 50/50 sharing of the crop would be equitable. All inputs should be valued, including management and risk. In general the higher the productive value of the land, the greater the landlord's share.
4. **Compensate the tenant or landlord at the termination of the lease for the undepreciated balance of long-term investments.** If a fair compensation arrangement cannot be developed, then the party that controls a particular investment pays for the investment. For example, the landlord usually pays for lime applied to cropland because the value lasts several years. If the tenant pays for the lime, the lease should provide a method of calculating how much the tenant gets paid for the unused portion of the lime, if the lease ends before the total value of the lime is recovered.
5. **Maintain communication between the landlord and tenant.** An equitable lease agreement requires that the landlord and tenant make an effort to communicate on a regular basis.

DETERMINING THE CROP SHARE

How a crop is divided will depend on a number of factors, including the local market rates for land, and the negotiating ability and expectations of both the tenant and landlord.

It is important to ensure that the crop share is profitable for both parties. A common method of calculating the crop share is called the contribution approach.

The Contribution Approach

The contribution approach uses the estimated costs or contributions of the tenant and landlord to determine the crop share ratio. The basic principle is that the parties share in the total return in the same proportion as their contributions. The tenant or landlord can use this approach separately or together to determine a reasonable crop share ratio. This can then become a starting point for further negotiations.

It can also be used to estimate how to adjust the crop share if one party incurs more costs, such as new technology or the contribution of equipment.

Table 3 is an example of how a landlord and tenant might calculate a crop share arrangement. The crop share percentage in the example is 65.7% for the tenant and 34.3% for the landlord. This means that the cost of the inputs that increase the yield, such as fertilizer and herbicide would be shared 65.7% by the tenant and 34.3% by the landlord.

The worksheet in *Table 3* is divided into 4 sections, which can be used separately or together.

- **Section A — Landlord's Investment or Contribution.** A landlord could use this to determine what return would cover all their costs.
- **Section B — Crop Revenue.** Used by landlord or tenant to estimate the revenue from the crop.
- **Section C — Crop Expenses.** The default crop expenses figures come from the OMAFRA Publication 60, *Crop Budgets*.
- **Section D — Net Income and Crop Share Calculations.** Outlines the calculations to arrive at the crop share percentages.

A blank crop share worksheet can be found in Appendix B.

The crop share percentage derived with this worksheet will **not** equal a customary share arrangement percentage such as 1/4–3/4 or 1/3–2/3.

TABLE 3. Sample Crop Share Worksheet

Section A — Landlord Investment					Column 1	Column 2	Column 3	
	Total Value	Rate (%) or Life (Yrs)	Total Amount	Per Acre Charge		Tenant Share	Landlord Share	
Number of Acres	100							A
Value of Land (exclude personal) & Investment Interest Rate (value x rate = per acre charge)	1,800	4.0%	7,200.00	72.00			\$ 72.00	B
Property Tax Per Year (optional Calculation using % of investment)		1.0%	1,800.00	18.00			\$ 18.00	
Value of Land Improvements/acre & the Life Span	25.00	10.00	250.00	2.50			\$ 2.50	
Value of Landlords Equipment Used								C
Depreciation		12	0.00	0.00				
Average Interest		4%	0.00	0.00				
Other Expense				0.00				
Total			\$9,250.00	\$ 92.50		\$ -	\$ 92.50	D
Section B — Tenant or Landlord Crop Revenue								
	Corn	Crop 2	Crop 3	Combined				
Number of Acres	100	0	0	100				E
Expected Yield per acre	130							F
Price per tonne or bushel (or other unit)	\$ 3.30							G
Total Expected Yield (LINE E x F)	13,000							H
Gross Crop Revenue (LINE G x H)	\$ 42,900			\$ 42,900		\$ 28,193	\$ 14,707	I
Government Payments								J
TOTAL REVENUE PER ACRE (LINES I + J) / E	429.00			429.00		\$ 281.93	\$ 147.07	K
Section C — Tenant or Landlord Crop Expenses								
Detailed Crop Expenses	Corn	Crop 2	Crop 3	Weighted Average		Tenant Share	Landlord Share	
Seed	49.00			49.00		\$ 49.00		
Fertilizer	78.15			78.15				
Herbicide	28.00			28.00				
Insecticide	15.00			15.00				
Machinery Fuel	21.00			21.00		\$ 21.00		
Machinery Repairs and Maintenance	19.00			19.00		\$ 19.00		
Crop Insurance	6.45			6.45		\$ 6.45		
Marketing Fees	0.00			0.00				
Drying				0.00				
Custom Work	8.00			8.00		\$ 8.00		
Trucking	0.00			0.00				
Storage	0.00			0.00				
Consulting and hired labour	16.00			16.00		\$ 16.00		
Operating Interest	8.00			8.00		\$ 8.00		
Other Expenses	15.00			15.00		\$ 15.00		
Other Expenses (Land Improvements)				0.00				
TOTAL VARIABLE EXPENSES PER ACRE	263.60			263.60		\$ 142.45	\$ —	
TOTAL VARIABLE CROP EXPENSES	26,360							
Fixed Expenses	Total Value	Rate (%) or Life (Yrs)	Total Amount	Per Acre Charge				
Value of Tenant Equipment	150,000							L
Total Acres Cropped by Tenant	1,000							M
Investment per Acre Allocated to this Crop (A/M x L)		150						N
Depreciation (rate x LINE N)		10.00	1,500.00	15.00		\$ 15.00		
Average Interest (rate x LINE N)		7.0%	525.00	5.25		\$ 5.25		

Insurance (rate x LINE N)	0.25%	37.50	0.38	\$ 0.38	
Total Fixed Costs		2,062.50	\$ 20.63	\$ 20.63	O
Labour and Management					
Labour Charge (hours per acre x rate per acre)	0.5 hrs/ac @	\$ 9.00	\$ 4.50	\$ 4.50	
Management Charge (rate x (land value per acre + LINE N))	0.5% of total investment		\$ 9.75	\$ 9.75	
Total Cropping Expenses (excluding investments expense)			\$ 298.48	\$ 177.33	\$ — P
ALL COSTS INCLUDING ALL INVESTMENT COSTS			\$ 390.98	\$ 177.33	\$ 92.50 Q
PERCENT CROP SHARE (LINE Q landlord or tenant / LINE Q col. 2 and 3)			65.7%	34.3%	R
Section D — Tenant or Landlord Net Income or Crop Share Percentage					

Cash Rental	Per Acre	Total			
Crop Revenue per Acre (LINE K)	\$ 429.00	\$ 42,900			S
Total Crop Expenses (exclude. Section A) (LINE P)	\$ 298.48	\$ 29,848			T
NET INCOME PER ACRE (LINE –T)	\$ 130.53	\$ 13,053			U
Landlords Required Income (LINE D)	\$ 92.50	\$ 9,250			V
Tenants Net Income after Landlords Required (LINE U–V)	\$ 38.03	\$ 3,803			
Crop Share	Landlord		Tenant		
	Per Acre	Total	Per Acre	Total	
Total Expenses to be Shared (LINE Q: col. 1 minus (col. 2+3))	\$ 121.15	\$ 12,115	\$ 121.15	\$ 12,115	W
Percentage Share (LINE R – Landlord or tenant)	34.3%		65.7%		
Revenue (LINE S x LINE R – landlord or tenant)	\$ 147.07	\$ 14,707	\$ 281.93	\$ 28,193	X
Landlord & Tenants portion of shared of expenses (LINE R x W)	\$ 41.53	\$ 4,153	\$ 79.62	\$ 7,962	Y
Cash Cropping Expenses (excludes investment and depreciation)	\$ 59.53	\$ 5,953	\$ 241.94	\$ 24,194	Z
Cash Income from Crop Share (after shared expenses) (LINE X-Z)	87.54	\$ 8,754	\$ 39.99	\$ 3,999	
Total Expenses including land and machinery investment (Y+Q)	\$ 134.03	\$ 13,403	\$ 256.94	\$ 25,694	AA
Net Income (after all expenses include investment costs) (LINES X – AA)	\$ 13.04	\$ 1,304	\$ 24.99	\$ 2,499	

For an explanation of terms used in Table 3, please see Table 4 in Appendix B.

The results are a guideline only. Many of the costs are estimates only. It may be difficult to determine the value of the landlord's land investment since it varies with the market value of land and the desired investment return selected. The tenant's fixed costs for machinery and an allowance for his labour and management input are similarly difficult to determine and can vary from situation to situation.

CROP SHARE RENTAL ARRANGEMENTS WITH MACHINERY INCLUDED

Generally it is not recommended to include machinery in a land rental arrangement. However, it can be justified on a short-term basis in some circumstances. For example, the landlord may not be able to find a tenant with sufficient machinery to farm the rental property. Perhaps the landlord decides to rent the property for a year or two but is uncertain if it will be permanent. In these circumstances it may be wise for the landlord to retain the ownership of machinery. When a farmer ceases farming and rents land but retains ownership of the machinery, they are not permitted under the *Income Tax Act* to claim capital cost allowance on the machinery unless it is included in a lease.

LANDLORD AND TENANT ISSUES

Cropping Decisions

Normally, the tenant makes the cropping decisions about crops to grow, acreage of each and use of inputs. In some cases however the landlord may want a direct say in the cropping decisions.

Crop Insurance

A tenant or landlord may insure their share of the growing crop separately by purchasing insurance coverage separately from a private company or through AGRICORP the provincial crop insurance agency.

It is important to discuss your share crop arrangement with AGRICORP to determine what options the landlord and tenant have to insure their portion of the crop. AGRICORP can be reached at 1-888-247-4999.

Delivery and Sale of Grain

It is important to discuss and specify in the lease agreement who is responsible for the delivery and sale of the crop and how that sale is to take place. Often the tenant is responsible for the delivery of crop to a specified delivery point, where the agreed percentage is either allocated to the landlord or the landlord receives the net cash price after handling costs and transportation is deducted.

RESOURCES

Knowing your costs is important in determining a fair rental rate and developing a lease agreement. Your own records are the best source of this information, however when these are not available it is important to use realistic estimates. The following sources can be of help.

- Publication 69, *Ontario Farm Management Analysis Report* (OFMAP), published annually by OMAFRA
- Publication 60, *Crop Budgets*, updated annually these 12 crop budgets can provide you with cost estimates.
- Sample lease agreements — electronic versions of the lease agreements
- Land Leasing Tools Spreadsheet — contains all the tables and calculations in this Factsheet.

All these documents can be found on the Business Development page of the OMAFRA Web site at: www.gov.on.ca/OMAFRA/english/busdev.

SUMMARY

Crop share leases allow landlords and tenants to share the risks and returns of producing crops. For some landlords it also allows them to maintain their farming status for tax purposes. Landlords and tenants should review the crop share agreement annually to ensure that the agreement is still appropriate for the current year's circumstances.

This publication is intended as general information and not as specific advice concerning individual situations. It outlines some of the legal and tax considerations of leasing arrangements but it should not be considered as either an interpretation or complete coverage of the *Income Tax Act* or the law affecting land rental arrangements. The Government of Ontario assumes no responsibility towards persons using it as such. All land rental arrangements should be discussed with your farm management advisor, accountant, or lawyer before they are signed.

This Factsheet was written by **Rob Gamble**, Finance and Business Structures, Program Lead, Agriculture and Rural Division, OMAFRA, Guelph. Portions of this Factsheet were taken from the North Central Regional Extension Publication No.105 entitled *Crop-share or Crop-share/Cash Rental Arrangements for Your Farm*, by **Larry N. Langemeier**, Professor, Kansas State University. The author would like to gratefully acknowledge his permission to do so.

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APPENDIX A — SAMPLE CROP SHARE LEASE AGREEMENT

This sample lease provides landlords and tenants with a guide for developing an agreement to fit their individual situation. This form is not intended to take the place of legal advice pertaining to contractual relationships between the two parties.

SECTION 1 — REQUIRED ITEMS

1. Names and Addresses of the Tenant and Landlord

This lease is entered into on *December 1st, 2000*, between *name of*, Landlord, of *R.R. # town name, Ontario and name of*, spouse of Landlord and *name of*, Tenant, of *R.R. # town name, Ontario and name of*, spouse of Tenant.

Instructional Note: If the family residence is included in the lease then it is important for the non-owning spouse to consent to the lease in order to satisfy the obligation of spouses under the family law of Ontario.

2. Description of Property to be Rented

The Landlord rents and leases to the Tenant, to occupy and to use for agricultural purposes only, the following real estate located in the *Township Name*, in the County, District or Region of *County Name in the Province of Ontario*, legally described as *Lot number, Concession number*, commonly known as the *common name* farm and consisting of approximately *number of* acres.

3. The Term of the Lease

Instructional Note: A lease of this nature cannot extend beyond a term of 21 years; it is suggested that the maximum term of the lease for paragraph (a) below be 20 years.

Only use one of the clauses below. If a continuing lease is desired, use paragraph (a) and strike out (b). If a definite term is desired, use paragraph (b) and strike out paragraph (a). No notice of termination is necessary if paragraph (b) is used.

- a) **Continuing Lease** — The term of this lease agreement shall be in effect for *number of year(s)* commencing on the *day month and year of*, and shall continue in effect from year to year thereafter (as an annual lease) unless written notice of termination is given by either party to the other at least *number of days* prior to expiration of this lease or the end of any year of continuation.
- b) **Annual Lease** — The term of this lease shall be *number of year(s)*, commencing on the *day month and year of* and ending on the *day month and year of*. If the Tenant wishes to renew this lease the Tenant must notify the Landlord in writing not less than sixty (60) days prior to the expiry date of the lease of the Tenant's desire to renew. If such a notice is delivered,

then the Landlord and Tenant shall seek agreement on the terms of such renewal which must be agreed to within thirty (30) days prior to the expiry of the then current term of the lease failing which this lease shall terminate on the date set for expiration and the Tenant shall give up possession of the leased premises.

4. Rent Payable

The annual rent shall be a percentage of the crop in the following agreed percentages:

Landlord – *[enter percentage]* %
Tenant – *[enter percentage]* %

The following crop inputs will be shared on the same agreed percentage as the crop.

Fertilizer
Herbicides
Insecticide
Other
Other

Instructional Note: *Table 4* can be used to determine the share and the inputs being shared. It is important that the method of payment or delivery of the crop be specified. Most often the Tenant will agree to deliver the crop to a specified elevator. The delivery point and how the transaction will be handled should be clearly specified in the lease.

5. General Clauses

Right to Sublet or Assign — The Tenant shall have the right to sublet or assign this lease provided the Tenant obtains the written consent of the Landlord, which consent shall not be unreasonably withheld.

Amendments and Alterations — Amendments and alterations to this lease shall be in writing and shall be signed by both the Landlord and Tenant.

No Partnership Intended — It is particularly understood and agreed that this lease shall not be deemed to be nor intended to give rise to a partnership relation.

Binding on Heirs — This Lease shall be binding upon the Landlord and Tenant and their respective personal representatives, trustees, successors and assigns.

Landlord liability — The Tenant takes possession of the leased premises subject to the hazards of operating a

farm, and assumes all risk of accidents personally as well as for family, employees, or agents in pursuance of farming operations, or in performing repairs on buildings, fences, tile, and other improvements except for any liability arising out of the gross negligence of the Landlord.

SECTION 2 — RECOMMENDED ITEMS

1. Right of Inspection and Removal of Crops

Landlord's right to enter property — The Landlord reserves the right personally or by agents, employees, or assigns to enter upon the premises at any reasonable time to view them, to work or make repairs or improvements thereon, to care for and dispose of the Landlord's share of crops, to develop mineral resources or, after constructive notice has been given that the lease may not be extended, and following severance of crops, to plow and prepare a seed bed, make seedings, apply fertilizers, and any other operation necessary to good farming by the succeeding operator, these operations not to interfere with the Tenant's in carrying out the regular farming operations.

Tenant's right-of-way — The Landlord agrees to give quiet possession of the leased premises. The Landlord shall give to the Tenant a right-of-way over lands owned by the Landlord which abut the leased premises for the purpose of allowing the Tenant to plant, care for or harvest the crops on the leased premises if such a right-of-way is necessary and such right-of-way shall cease upon the termination of this lease.

Tenant's Compensation on Termination of Lease — The Landlord agrees to reimburse the Tenant at the termination of this lease for field work done and for other crop costs incurred for crops to be harvested during the following year. Unless otherwise agreed, current custom rates for the operations involved will be used as a basis of settlement.

2. Transfer of Property

Sale of Property recognizes the lease — If the Landlord should sell or otherwise transfer title to the leased premises, the Landlord shall do so subject to the provisions of this lease.

– or –

Lease Terminated on the Sale of the Property — In case the Landlord should desire to sell the leased premises and premises during the term of the lease, the lease may be terminated at any time by giving number of days notice to the Tenant. The Tenant shall, at the expiration of the notice period, peaceably and quietly give up possession of the leased premises to the Landlord. The Landlord shall, after the Tenant has delivered up

possession in manner aforesaid, and paid to the Landlord the full proportion of rent up to the beginning of the notice period will compensate the Tenant for the value of the crops sown and then growing, or of the field work done on the leased premises in preparing for a crop, the amount of such compensation to be determined by arbitration if the parties cannot agree thereon.

3. Termination of Lease

Grounds for Termination of Lease — If either party fails to carry out substantially the terms of this lease in due and proper time, the lease may be terminated by the other party by serving a written notice citing the instance(s) of default and specifying a termination date of *number of days* from the date of such notice. Settlement shall then be made in accordance with the provisions under the Right of Inspection and Removal of Crops section of this lease and any amendments to this lease.

3. The Use of the Land

The Tenant further agrees to perform and carry out the stipulations below. (Strike out any not desired.)

A. ACTIVITIES REQUIRED

Condition of Land at the end of the lease — The Tenant agrees to leave the rented land in the same condition as at the beginning of the lease.

Compensation to Landlord for Damages — The Tenant agrees when he leaves the leased premises, to pay the Landlord reasonable compensation for any damages to the leased premises for which he, the Tenant, is responsible.

Good Stewardship — To cultivate the leased premises faithfully and in a timely, thorough, and business-like manner and in accordance with normal farm practices.

Weed Control — To prevent noxious weeds from going to seed on the leased premises and to destroy the same and keep the weeds and grass cut.

Soil Erosion — To control soil erosion as completely as reasonably possible; keep in good repair all terraces, open ditches, inlets and outlets of tile drains; preserve all established watercourses or ditches including grassed waterways; and refrain from any operation or practice that will injure such structures.

Repairs — To keep the fences and other improvements in as good repair and condition as they are when the Tenant takes possession or in as good repair and condition as they may be put by the Landlord during the term of the lease, ordinary wear, loss by fire, or unavoidable destruction excepted.

B. ACTIVITIES RESTRICTED

The Tenant further agrees, unless the written consent of the Landlord has been obtained:

No Alterations — Not to remove, alter or change the style or position of any building or fence on the said leased premises

No Other Activities — Not to permit, encourage, or invite other persons to use any part or all of this property for any purpose or activity not directly related to its use for agricultural production.

No Cutting of Trees — Not to cut live or dead trees for the purpose of sale or personal uses.

No Signage — Not to erect or permit to be erected any commercial advertising signs on the leased premises.

No Mineral Rights — Nothing in this lease shall confer upon the Tenant any right to minerals underlying the land. Such mineral rights are hereby reserved by the Landlord together with the full right to enter upon the premises and to bore, search, excavate, work, and remove the minerals, to deposit excavated rubbish, to pass over the premises with vehicles, and to lay down and work any railroad track or tracks, tanks, pipelines, powerlines, and structures as may be necessary or convenient for the above purpose. The Landlord agrees to reimburse the Tenant for any actual damage the Tenant may suffer for crops destroyed by these activities and to release the Tenant from obligation to continue farming this property when development of mineral resources interferes materially with the Tenant's opportunity to make a satisfactory return.

4. Environmental Matters

The parties hereto hereby acknowledge that the Tenant intends to use the leased premises described in this lease for agricultural purposes and that such use of the land may have an environmental impact; accordingly, the parties agree as follows:

Use of Normal Farm Practices — The Tenant shall conduct its operations on the leased premises in accordance with normal farm practices including, but not limited to, the application of fertilizers, pesticides and herbicides and shall only engage licensed applicators of such substances or shall ensure that the Tenant is appropriately licensed for such applications.

Manure and Nutrients — To haul and spread manure only on appropriate fields at times and in quantities consistent with sound manure management practices and in accordance with the guidelines and regulations of the *Nutrient Management Act* 2001. Where a Nutrient Management Plan (NMP) is in place the Tenant shall apply manure and other nutrients in accordance to the rates, manner and separation

distances from neighbours, wells and watercourses and any other guideline as stated in the nutrient management plan. The Tenant shall also keep a record of nutrient applications and will produce them at the request of the Landlord. The Tenant shall also notify the Landlord in writing if the Tenant is submitting nutrient information to a municipal or region government as part of an official nutrient management tracking system.

Municipal Sludge — The Tenant shall not, without the written consent of the Landlord, apply or give permission to have applied, any municipal waste or sludge on the leased premises. Where the Landlord has granted permission, any municipal sludge or waste shall be applied in accordance to the *Nutrient Management Act* 2001.

Chemical Spills — The Tenant shall immediately report any spill or misuse of chemicals to the Landlord and to comply generally with all environmental laws including the provisions of the *Environmental Protection Act* (Ontario) including the requirement to attend to the immediate clean-up of any such spill at the sole cost of the Tenant.

Chemical Storage — The Tenant shall insure that no chemicals will be stored on the property for longer than is required for the current years application or use and in no greater amounts than is required for the leased land. The Tenant shall ensure that they are stored in a secure dry location away from all wells and watercourses in closed, tight containers above ground and clearly marked. No chemicals or chemical containers will be disposed of on the property.

Noise — The Tenant shall ensure that no undue noise or other nuisance emanates from the leased premises or from the operations of the Tenant on the leased premises.

Spill Insurance — The Tenant shall be required to obtain and maintain during the currency of this lease adequate policies of insurance, the content and policy limits thereof to be satisfactory to the Landlord acting reasonably, naming the Landlord as an additional insured party for the risks attendant with any environmental matter including, but not limited to, the improper disposal of wastes or the application or misapplication of toxic substances. In setting the policy limits the Landlord shall act reasonably having regard to the potential risks associated with such a spill.

Landlord Not Responsible for Costs — For separate consideration, the Tenant hereby agrees to indemnify and save harmless the Landlord from any costs incurred by the Landlord arising directly or indirectly from the breach by the Tenant of this provision.

Tenant Must Carry Insurance — For the term of the lease, the Tenant shall maintain insurance, insuring the Tenant while performing on these premises. The Tenant shall furnish a Certificate of Insurance at the Landlord's request and agrees that all applicable insurance policies name the Landlord as an additional insured and to receive notice of termination of coverage.

pesticides were applied to crops growing on the land, plus by April 30 of the last year of this lease, a proposed pesticide usage plan for the final crop year.

– or –

The Tenant is prohibited from using the following pesticides, unless mutually agreed upon: List Pesticides

SECTION 3 — OPTIONAL ITEMS

1. Resolving Differences

Disagreements Will Be Submitted to an Arbitrator(s) —

Any differences between the parties as to their several rights or obligations under this lease and to the affairs of the leased premises that are not settled by mutual agreement after thorough discussion, shall be referred to the arbitration of a single arbitrator, if the parties hereto agree upon one; otherwise to three arbitrators, one to be appointed by each party and a third to be chosen by the first two named before they enter upon the business of arbitration. The award and determination of such arbitrator or arbitrators, or any two of such three arbitrators, shall be binding upon the parties hereto and their respective heirs, executors, administrators and assigns.

2. Production Practices and Management Decisions (Choose One Under Each Heading)

Cropping Plans — The Tenant shall make all decisions with respect to growing of crops on the land unless stated otherwise in this agreement. The Tenant shall prior to the beginning of each lease year, provide a plan of operation for the Landlord's information.

– or –

The Tenant and Landlord will agree on an annual cropping plan by the beginning of each lease year. The cropping plan will include crops to be grown, pesticides to be used and conservation practices to be employed for each year, unless stated otherwise in this agreement.

– or –

The extent to which the Landlord will participate in management decisions shall be governed by provisions attached to this lease form and hereby incorporated as a part of this lease.

Pesticides — The Tenant and Landlord will jointly make all decisions with respect to which pesticides can be used on the land.

– or –

By December 31 of each year of this lease, the Tenant must supply the Landlord with a listing of what

3. Income Support Payments, Subsidies and Reimbursements

Tenant Receives Government Payments for Crops —

In the event that any payment, subsidy or other reimbursement is made under any government agency or any marketing agency in connection with income support to the actual producer of crops grown on the leased premises during the term of this lease the amount paid in respect of the land leased in this agreement shall be paid to the Tenant.

4. Compensation for Repairs to Buildings, Fences, and Improvements

Tenant Responsible for Normal Repairs —

The Tenant shall not make major improvements, other than what is considered normal repair and maintenance, to the leased land or any other assets identified in this agreement without written permission of the Landlord.

Landlord Responsible for Major Improvements —

Major improvements, which without restricting the generality of the term, shall include: water development, erosion control, fencing and building construction, clearing, breaking, and seeding to pasture and hayland. Such consent shall be attached to and form part of the lease agreement. The amount of compensation shall be an amount agreed upon by the Landlord and Tenant. Title to all improvements shall vest in the Landlord and no improvements shall be sold, removed, disposed of or encumbered without the written consent of the Landlord.

5. Compensation for Crop and Property Damages, Oil and Gas, Utilities, Roads, and Rights-Of-Way

Compensation Paid to Party who Suffers the Loss —

Compensation for reasons such as, but not limited to, property damage and inconvenience from oil and gas exploration, pipeline development, power and telephone line installations, or road construction, shall accrue to the party that has suffered the loss. The Landlord will have the final say on who has suffered the loss except as follows:

- a) *Crop Damage* — where the compensation is for crop damage, the loss shall be deemed to be the Tenants.
- b) *Work Completed by Tenant* — where the

compensation is for work completed by the Tenant such as, but not limited to, fence re-construction, grass reseeding or topsoil leveling, the compensation will be paid to the Tenant.

- c) *Compensation for Nuisance* — where the compensation is for the creation of a nuisance situation such as, but not limited to, gates being left open, dust or noise, the compensation will be paid to the Landlord.
- d) *Land Damage or Loss* — where the compensation is for a decrease in the land's value such as, but not limited to, loss of acres from the development, severing a parcel of land or top soil disturbance, the payment shall be made to the Landlord.

– or –

Compensation for reasons such as, but not limited to, property damage and inconvenience from oil and gas exploration, pipeline development, power and telephone line installations, or road construction, shall accrue to the Landlord.

– or –

Compensation for reasons such as, but not limited to, property damage and inconvenience from oil and gas exploration, pipeline development, power and telephone line installations or road construction, shall be determined by mutual agreement between the Landlord and Tenant. If mutual agreement cannot be reached, it shall be submitted to arbitration.

6. Rights of First Refusal

In the event that the Landlord receives a bona fide offer to purchase the leased premises which the Landlord is willing to accept, then the Landlord shall provide a copy of such offer to purchase to the Tenant within forty-eight hours of the receipt of such offer at which time the Tenant shall have a period of a further forty-eight hours to confirm to the Landlord that the Tenant wishes to purchase the leased premises upon the same terms and conditions as set out in the offer to purchase failing which the Landlord shall be at liberty to sell the leased premises pursuant to the offer to purchase.

Instructional Note: The lease should be signed by the Landlord and the Tenant and their respective spouses where necessary and witnessed by a third party.

APPENDIX B — CROP SHARE WORKSHEET

TABLE 4. Blank Crop Share Worksheet

SECTION A — Landlord Investment					Column 1	Column 2	Column 3	
	Total Value	Rate (%) or Life (Yrs)	Total Amount	Per Acre Charge		Tenant Share	Landlord Share	
Number of Acres								A
Value of Land (exclude personal) & Investment Interest Rate (value x rate = per acre charge)	\$	%					\$	B
Property Tax Per Year (optional Calculation using % of investment)		%	\$	\$			\$	
Value of Land Improvements/acre & the Life Span	\$	yrs	\$	\$			\$	
Value of Landlords Equipment Used	\$							C
Depreciation		yrs	\$	\$				
Average Interest		%	\$	\$				
Other Expense				\$				
Total			\$	\$		\$	\$	D
SECTION B — Tenant or Landlord Crop Revenue								
	Crop 1	Crop 2	Crop 3	Combined				
Number of Acres								E
Expected Yield per acre								F
Price per tonne or bushel (or other unit)	\$	\$	\$	\$				G
Total Expected Yield (LINE E x F)								H
Gross Crop Revenue (LINE G x H)	\$	\$	\$	\$	\$	\$	\$	I
Government Payments	\$	\$	\$	\$	\$	\$	\$	J
TOTAL REVENUE PER ACRE (LINES I + J) / E	\$	\$	\$	\$	\$	\$	\$	K
SECTION C — Tenant or Landlord Crop Expenses – do not record the expenses that are shared in col. 2 and 3								
Detailed Crop Expenses	Crop 1	Crop 2	Crop 3	Weighted Average		Tenant Share	Landlord Share	
Seed						\$	\$	
Fertilizer						\$	\$	
Herbicide						\$	\$	
Insecticide						\$	\$	
Machinery Fuel						\$	\$	
Machinery Repairs and Maintenance						\$	\$	
Crop Insurance						\$	\$	
Marketing Fees						\$	\$	
Drying						\$	\$	
Custom Work						\$	\$	
Trucking						\$	\$	
Storage						\$	\$	
Consulting and hired labour						\$	\$	
Operating Interest						\$	\$	
Other Expenses						\$	\$	
Other Expenses (Land Improvements)						\$	\$	
TOTAL VARIABLE EXPENSES PER ACRE	\$	\$	\$	\$	\$	\$	\$	
TOTAL VARIABLE CROP EXPENSES	\$	\$	\$	\$	\$			

Fixed Expenses	Total Value	Rate (%) or Life (Yrs)	Total Amount	Per Acre Charge		
Value of Tenant Equipment	\$					L
Total Acres Cropped by Tenant	\$					M
Investment per Acre Allocated to this Crop (A/M x L)	\$					N
Depreciation (rate x LINE N)		Yrs.	\$	\$	\$	
Average Interest (rate x LINE N)		%	\$	\$	\$	
Insurance (rate x LINE N)		0.25%	\$	\$	\$	
Total Fixed Costs			\$	\$	\$	O
Labour and Management						
Labour Charge (hours per acre x rate per acre)	0.5 Hrs/ac @		\$	\$	\$	
Management Charge (rate x (land value per acre + LINE N))	0.5% Of total investment			\$	\$	
Total Cropping Expenses (excluding investments expense)				\$	\$	P
ALL COSTS INCLUDING ALL INVESTMENT COSTS				\$	\$	Q
PERCENT CROP SHARE (LINE Q landlord or tenant / LINE Q col. 2 and 3)					%	% R

SECTION D — Tenant or Landlord Net Income or Crop Share Percentage

Cash Rental	Per Acre	Total	
Crop Revenue per Acre (LINE K)	\$	\$	S
Total Crop Expenses (exclude. Section A) (LINE P)	\$	\$	T
NET INCOME PER ACRE (LINE S-T)	\$	\$	U
Landlords Required Income (LINE D)	\$	\$	V
Tenants Net Income after Landlords Required (LINE U-V)	\$	\$	

Crop Share	Landlord		Tenant		
	Per Acre	Total	Per Acre	Total	
Total Expenses to be Shared (LINE Q: col. 1 minus (col. 2+3))	\$	\$	\$	\$	W
Percentage Share (LINE R – Landlord or tenant)		%		%	
Revenue (LINE S x LINE R – landlord or tenant)	\$	\$	\$	\$	X
Landlord & Tenants portion of shared of expenses (LINE R x W)	\$	\$	\$	\$	Y
Cash Cropping Expenses (excludes investment and depreciation)	\$	\$	\$	\$	Z
CASH INCOME FROM CROP SHARE (after shared expenses) (LINE X-Z)	\$	\$	\$	\$	
Total Expenses including land and machinery investment (Y+Q)	\$	\$	\$	\$	AA
NET INCOME (after all expenses include investment costs) (X – AA)	\$	\$	\$	\$	

Cost per acre is calculated by multiplying, or dividing, the total or per-acre value by rate or life.

Land value — Land is valued at its current fair-market value for agricultural purposes. The influence of location near cities and other non-agricultural influences on value is ignored.

Interest on land — A practical “bargaining” rate of interest tends to be 4%–7%.

Property taxes — The actual taxes due annually should be used.

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

Crop machinery — The value of machinery should be the average value of a good line of machinery necessary to farm in the area. The value should not be the cost of a new line of machinery.

Machinery depreciation — Depreciation can be calculated using the average years of life for the equipment. An average for a typical farm might be 7- 10 years.

Interest charge should be computed on “average” investment in crop machinery.

Machinery repairs, taxes, and insurance — Farm records indicate repairs are 5%–8% of the original machinery value. The charge for taxes and insurance should be from 0.25%–1%.

Machinery interest — The current interest costs on the average machinery value (usually one-half the original value) should be used.

Labour — Labour can be contributed solely by the tenant or by both the tenant and landlord.

Note: Average custom rates for tillage, planting, and harvesting operations can be used to estimate the annual charges for machinery and labour. Placing a value on labour is a bargaining process between the parties entering the leasing arrangement. A guide for estimating the value of labour is the going wage rate paid to farm employees within the community. Most farm operators are certainly worth more than the value of an average employee because of their management, but management is valued separately from labour.

Management — The function of management may or may not be shared. If the landlord contributes to management, credit needs to be given. If the tenant bears all management responsibility, place a value on this management function. The value of management is largely a result of bargaining between the landlord and tenant. Two alternatives are possible:

- A possible guide is 1%–2.5% of the average capital managed in the business. The average capital managed is equal to the market value of the land and value of machinery.
- Professional farm managers commonly charge 5%–10% of adjusted gross receipts. (In the case of crop production, gross receipts equal total crop receipts.)

Either procedure will provide an estimated value for management. However, a value equal to 1%–2.5% of average capital managed is a more stable figure than a percentage of gross receipts because prices and yields for commodities vary greatly from year to year.

Custom Work — Harvesting, hauling, spreading fertilizer, and other operations are often custom-hired. These charges can be entered in the worksheet. **Note:** If custom hiring is done, the crop machinery investment should be adjusted, as less machinery investment is needed when custom work is part of the operation.

Harvesting and hauling cost may be included in crop machinery and fuel-oil expenses.

Total Crop Costs will probably not represent the total costs of both parties. In the example, values for such inputs as fertilizer, herbicide, and insecticide were not listed since these items were shared in the same percentage as the crop.

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