

Procedures For Preparing Contracts Associated With Fee Hunting Enterprises



**Range Improvement Task Force
Cooperative Extension Service
Agricultural Experiment Station
College of Agriculture and Home Economics**



**PROCEDURES FOR PREPARING CONTRACTS
ASSOCIATED WITH FEE HUNTING ENTERPRISES**

**James E. Knight
Extension Wildlife Specialist**

The purpose of this publication is to help landowners prepare contracts used in fee-hunting enterprises. It is imperative that the reader understand the sample agreements presented are not intended as contracts suitable for everyone's purposes. The following steps are recommended to formulate and prepare a contract for fee-hunting enterprises.

1. Operator should list all ideas or concerns he wishes to have addressed in a contract.
2. Review sample contracts contained in this publication. Add items to the operator's original list.
3. Consult your attorney to have list incorporated into a contract.
4. Have final contract reviewed by your insurance agent to be sure it meets with the requirements of the liability policy carrier.

Lease Provisions

An outline of the various provisions that should be included within the lease is given below. It is important to check with your attorney before entering into a binding legal agreement.

INTRODUCTORY MATERIAL

The introduction to a lease should include date of signing, full names of parties involved (lessor and lessee) and other requirements for leases contained in the state's statutes.

I. PURPOSE OF LEASE

Is it to be limited or general? Hunting only? Fishing only?

II. DESCRIPTION OF LAND

Full legal description should be included. May be included as an attachment to lease if it is incorporated by reference into this provision.

III. TERMS

Starting and ending dates for the lease. If the lease is tied into hunting seasons set by the state or U.S. Fish and Wildlife Service, reference should be made. If seasons are prematurely closed, a reasonable accommodation with the lessee should be included to allow a partial refund of money or carry-over of hunting days into the next season.

IV. AMOUNT OF RENT

Include the amount and when payable, if in installments.

V. DUTIES OF LEASE

A narrative list of the lessee's duties while on the leased premises. Can include such diverse items as vehicle use, types of hunting or fishing allowed, making of fires destruction of timber or other resources, use of alcoholic beverages, presence of juveniles, kinds of allowable uses or any other condition the lessor wants to impose on the lessee.

VI. REMEDIES FOR BREACH OF LESSEE'S DUTIES

Include a statement authorizing the lessor to cancel the lease if the lessee violates a duty imposed by the lease. This forfeiture should also include the lessee's loss of any rentals paid.

VII. LESSOR'S DUTIES

List any duties on behalf of the lessor regarding condition of premises or improvements.

VIII. AS IS CLAUSE

Lessee agrees to take the premises in its present condition.

IX. ANTI-ASSIGNMENT

The lease should not be assignable or transferable without prior approval by the lessor.

X. TERMINATION PROVISIONS

XI. CLOSING FORMALITIES

These provisions are not intended to be all-inclusive. If the lessor wants to provide other services, e.g. guides, cleaning of carcasses or rental of equipment, they should be included. A provision regarding the making of improvements can also be included. Either the lessor can prohibit them or merely state the improvements become the property of the lessor at the end of the leasehold term. A general exculpatory clause that tries to hold totally immune the lessor from liability might be ineffective. A more limited exculpatory clause may be valuable. If the lease is with a hunting club or association, an indemnification provision may be included requiring the club or association to reimburse the lessor for any claims arising from the use of the land. Again, it is important that landowners check with an attorney before entering into a lease-fee arrangement.

Example 1

MODEL LEASE AGREEMENT

(Please note: The following model agreements should not be copied from this publication word-for-word and used. It must be adapted to a specific situation by the landowner. Consultation with an attorney is recommended.)

Sir or Gentlemen:

I, (name of landowner, lessor,) for the sum of \$_____, payable in advance, grant to (name of organization or individual, lessee,) the right to hunt and shoot, subjects to the stipulations and conditions hereinafter set forth and only at such times as hunting and shooting are permitted by the laws and regulations of the United States and the State of New Mexico in force and effect, on the tract or tracts of land described as follows:

(Description of tract - county, road #, deed #, acres, other data)

STIPULATIONS AND CONDITIONS OF THIS LEASE

AGREEMENT:

1. If the lessee is an organization composed of several members, the terms of this lease and its stipulations and conditions shall apply to each and every member. The terms of this lease and its stipulations and conditions shall also apply to any and all guests of the organization and its members.

2. If the lessee is an organization composed of several members, the term "lessee" shall apply to the organization and to any or all of its members.
3. The rights herein granted are restricted solely to hunt and shoot.
4. Hunting and shooting are prohibited within 200 yards of any occupied dwelling or within any designated safety zone.
5. The right to hunt and shoot is subject to any rights that the landowner may care to exercise over the Lands. Agricultural and forest management activities will take precedence over hunting activities.
6. The lessee will post the boundaries of the leased property with durable signs that include the name and address of the lessee.
7. The lessee will exercise due care to prevent forest fires on the property; will not cut, use or destroy timber growing on the leased lands; and will not make or suffer any waste thereon.
8. The lessee will extinguish any fires on the leased land, without cost to the landowner, if the fire occurs when the lessee is using the tract.
9. The lessee will conform strictly with local, state and federal laws and regulations governing hunting and shooting; and the lessee will report all violations of laws and regulations, and assist law enforcement officers. If the hunting season begins after the date this lease commences, or ends before termination of this lease, the term of this lease will be reduced to conform with applicable regulations.

10. If the lessee is a club or other organization composed of several individual members, each individual member is bound by the terms of this lease and its stipulations and conditions, and failure to comply will subject the club or organization to liability under the provisions of Paragraph 11 herein. All members shall have in their possession a membership card valid for the current season, listing his name or her name and signed in ink by the club president or his representative. Others using the property with the permission of the club or organization will be issued a signed card granting permission to hunt and shoot, on which card the permittee will indemnify the lessor according to provisions of Paragraph 11.
11. The lessor assumes no responsibility for the safety of the lessee in the exercise of the rights granted by this agreement. The lessee hereby assumes all such responsibility. The lessor shall not be liable for any injury or death incurred by the lessee, either while on the leased land or while making use of rights-of-way to or from the leased land or while making use of any transportation facilities which may be provided by the lessee, from, or over the leased land. The lessee will indemnify and hold harmless the lessor from and against any claim, loss, cost or damage whatsoever caused by or arising from the operations of the lessee on the leased land or failure of the lessee to comply with any of the conditions of this lease, including failure to obtain all necessary signatures as set

forth in Paragraph 10 herein. Each member of the lessee organization will be jointly liable to indemnify and hold the lessor harmless pursuant to this Paragraph 11.

11. The lessor assumes no responsibility for the safety of the lessee in the exercise of the rights granted by this agreement. The lessee hereby assumes all such responsibility. The lessor shall not be liable for any injury or death incurred by the lessee, either while on the leased land or while making use of rights-of-way to or from the leased land or while making use of any transportation facilities which may be provided by the lessee, from, or over the leased land. The lessee will indemnify and hold harmless the lessor from and against any claim, loss, cost or damage whatsoever caused by or arising from the operations of the lessee on the leased land or failure of the lessee to comply with any of the conditions of this lease, including failure to obtain all necessary signatures as set forth in Paragraph 10 herein. Each member of the lessee organization will be jointly liable to indemnify and hold the lessor harmless pursuant to this Paragraph 11.
12. Any and all camp sites, club house grounds, or gathering places on the property shall be kept free of litter. Receptacles for trash may be placed within the leased areas and emptied by club members at the county landfill or in county-serviced dumpboxes.

13. Vehicles shall be parked in designated areas. Use of roads shall be restricted to dry weather conditions. The lessee shall honor all locked gates.
14. Should the lessee fail to comply, in the opinion of the lessor, strictly with the terms of this lease, the lessor reserves the right to cancel this lease forthwith without any liability whatsoever.
15. The lessor may cancel this lease even though the lessee has complied with its terms; but the lessor will refund to the lessee the proportionate part of the \$_____ paid, as the same shall bear to the unexpected period, without further liability whatsoever to the lessor.
16. Should the lessor elect to cancel this lease under Paragraph No. 14 herein, a letter addressed to the lessee (president of the leasing organization), cancelling the lease, will be accepted as sufficient notice by all parties herein referred to.
17. Unless cancelled as herein provided, all rights granted in and by this lease shall cease and terminate on _____
18. As an indication of acceptance of the stipulations and conditions herein, the "Acceptance" will be signed below and unless, or until, this lease is executed by the parties hereto, and the \$_____ as herein provided paid, the landowner is in no way obligated under the terms and conditions hereof.

SIGNED

(Date)

(Lessor)

(Date)

(Lessor)

(Date)

(Lessor)

(Date)

(Witness)

(Date)

(Witness)

(Date)

(Witness)

*Note: If the leasing organization is incorporated, the current president can sign for his members; but, if the leasing organization is an unincorporated association, all members must sign the lease.

Example 2

_____ LESSOR, LEASE TO

_____ LESSEE

These General Conditions of Lease are applicable to the lease agreement between _____ Corporation, hereinafter referred to as Lessor, and _____, Lessee. Lessee and all persons authorized to lessee to hunt upon the leased premises shall be hereinafter collectively referred to as "Hunters".

1. It will be the responsibility of the hunting club President to furnish each member with a copy of these General Conditions of Lease.
2. All persons authorized to hunt upon the leased premises shall at all times carry an identification card issued by Lessee showing the name and address of the Hunter and the Hunter shall exhibit such identification card to _____, its employees, agents, or representatives and to any state or County Law Enforcement Officer upon request. These cards will be issued to each member by the club.
3. Any Hunter on the leased premises who refuses to exhibit an identification card issued by Lessee, upon request as aforesaid, or does not have such identification card in his possession, may be treated as a trespasser.

4. Hunters shall not fire rifles or other firearms in the direction of any house, barn, other improvements or across any haul road located on the leased premises.
5. Hunters shall not abuse existing roads by use of vehicles during wet or damp conditions.
6. Hunters shall not disturb or damage the surface of the land, growing crops, timber, fences, gates, fence posts drainage structures, or appurtenances, or livestock or any improvements situated thereon.
7. Club officers, _____ wildlife biologists and the district forester will meet annually to discuss type and collection of data on wildlife populations and habitats of the lease. Such information will be submitted to _____ by March 1st of each leasing year.
8. All laws of the State of New Mexico, including, but not limited to, the laws regulating hunting shall be observed and complied with by all Hunters.
9. Hunters shall not build or allow fires on the leased premises, except in those areas specifically designated by Lessor in writing and in event shall be kept fully liable for such fires.
10. Hunters shall not prepare or construct any campsites on the leased premises without written consent from _____.
11. Hunters shall not construct any deer stands in pine trees.

12. Hunters shall not do or perform any act that will in any way interfere with or obstruct farming, forestry or livestock operations.
13. Juveniles who are not required by state law to have a hunting license may hunt only if accompanied by an adult.
14. All Hunters shall assume all risks of every kind by reason of hunting upon the leased premises with full knowledge that there may be dangerous places and things situated thereon.
15. Hunters shall not park automobiles or other vehicles so as to block roads situated upon the leased premises.
16. No alterations of any kind or character shall be made upon the leased premises by Hunters without consent of _____
17. No dogs shall be used for the purpose of hunting deer.
18. All gates used by Hunters shall be kept securely closed at all times.
19. Hunters shall at all times maintain a high standard of conduct acceptable to _____.

Instructions: Contractor should initiate agreement. Read entire agreement before executing contract. Any changes must be in writing and initialed by both parties. An executed copy of the agreement should be retained by each party.

Example 3

ANTELOPE HUNTING PERMIT AND AGREEMENT

The _____ Ranch, _____ County, New Mexico, is composed of private lands owned by the grantor of this permit to hunt.

In consideration of privilege of hunting on the Ranch lands and use of open private roads thereon under this permit and agreement, the undersigned permittee has paid the required fees and hereby agrees to rules and regulations attached hereto and acknowledges receipt of a copy thereof.

As additional and further consideration of this permit, the undersigned, being familiar with or having been informed of the risks involved in participating in the sport of hunting, hereby verify, confirm and agree that they are assuming such risks, and for themselves, their survivors or insurers, disclaim and waive any right of action against _____ in the event of injury or damage to themselves or their property while participating in the 19__ Antelope Hunt at _____ County, New Mexico.

The undersigned further stipulate and agree that _____ has made no representation or warranty as to the safety of its equipment or facilities and it owes then no duty beyond that which it would owe to any other persons being on its property in the legal capacity of a licensee.

Success is dependent upon the ability of the individual hunter and _____ does not guarantee success to anyone.

PERMITTEE NAME

Address: _____

Address: _____

By _____

_____, New Mexico