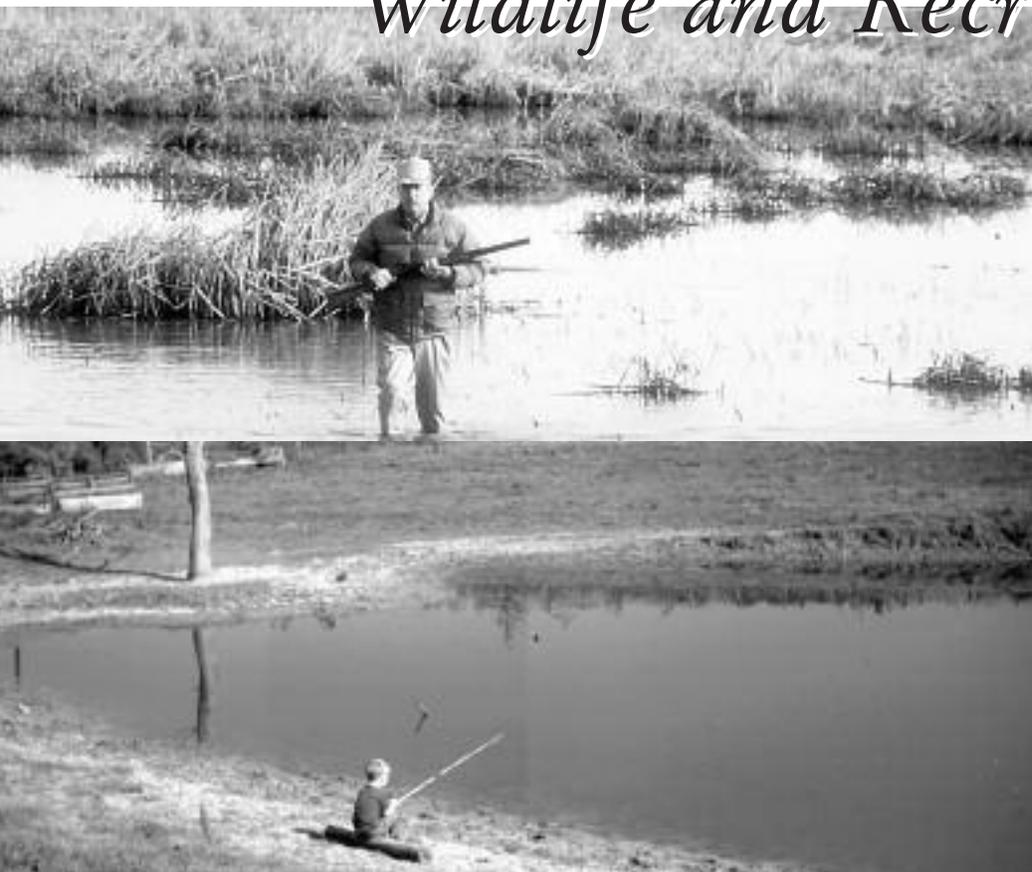


NATURAL RESOURCE ENTERPRISES

Wildlife and Recreation



Hunting Leases: Considerations and Alternatives for Landowners

Interest is growing in the South and throughout the United States for landowners to provide recreational access to their land for people to hunt, fish, and enjoy other types of outdoor recreation. For many farm, ranch, forest, and other landowners, alternative enterprises may provide an opportunity to sustain their natural resource base, maintain their quality of life, and increase annual profits.

Offering access to private land for recreational uses by the public can be a viable alternative enterprise. Natural resource-based alternative enterprises on private land range from producing products such as pine straw for

mulching, to providing access for bird watching, trail riding, and hunting and fishing.

Recreational hunting and fishing leases have become an important source of supplemental income for many landowners in recent years, and the demand for access to private lands for recreational uses continues to grow. When these enterprises are appropriately developed and implemented, they will contribute to local community economies in many ways. However, there are many things to consider before implementing a hunting lease.

Not all private landowners will want to open their lands for such access and use, but for

NATURAL RESOURCE ENTERPRISES

those who feel they would like to explore such enterprises, some tradeoffs will be necessary. Landowners must consider and manage such enterprises as an integral part of their total operations. They must also keep in mind the long-term sustainability of their natural resource base on which the total operation depends.

The information in this publication helps you as a landowner make informed decisions about one potential alternative natural resource-based enterprise—hunting leases. Much of the information in this publication comes from a number of sources, including scientific papers presented at various conferences, and from personal experience working with private landowners and recreational users over the past 35 years.

This publication does not provide all-inclusive, definitive information on hunting leases for

any individual. Natural resource productivity and sustainability capabilities in different areas are not necessarily the same. Each geographic site capability is different. Each landowner's objectives and management skills are different. Figures in this publication for fees charged per acre and minimum amounts of acreage suggested for specific kinds of hunting operations may not be appropriate for every operation. Some of the figures provided are "rule of thumb" or "ballpark" estimates for consideration based on regional or statewide surveys and informal discussions with enterprise operators. Liability insurance sources provided are simply sources known, and it is very likely there are many other providers. Sample lease agreements and sample hunting club bylaws are simply templates that you, a manager, or a hunting club group may find useful to customize for individual and operation needs.

TYPES OF HUNTING LEASES

A hunting lease is an agreement between you as the landowner (lessor) and hunters (lessees) that grants the hunter access rights for hunting game animals (and other specified activities) on your property for a specified time period. Hunters usually pay you an agreed-upon dollar amount per acre or per hunter. However, in some leases you may agree to a smaller combination of dollars per acre or per hunter with a written agreement that the hunter or hunters perform some service in exchange for the privilege of hunting access. There are numerous kinds of leases and agreements based on the agreed-upon collaboration (usually in writing) between the lessor and lessee. Following are some common types of hunting leases:

■ *Long-Term*

- ✓ Seasonal lease—all species of game legal to hunt
- ✓ Seasonal lease—specified animal or animals
- ✓ Annual or multi-year lease—all species
- ✓ Annual or multi-year lease—specified game animal or animals.

■ *Short-Term*

- ✓ Daily hunting, often by permit
- ✓ Weekly hunts
- ✓ Multi-day (3- to 5-day) hunts
- ✓ Special season hunts, such as bow, muzzle-loader, or rifle only

The most common types of hunting leases are the long-term annual and long-term seasonal. Under this type of leasing system, you generally provide individual hunters or groups of hunters the privilege of access to your land for hunting for a season, a full year, or for several consecutive years.

This type of leasing usually allows the hunter or hunters the privilege of hunting legal game species during specified open seasons, with fees assessed on a per-acre or lump-sum basis. These leases let you specify which game species can be hunted, and you can reserve hunting rights for yourself, your guests, and your immediate family. In fact, depending on the interests of the lessee and your willingness, these leases can be customized to the satisfaction of both you and the lessee, as well as the agreed-upon price paid for the privilege of leasing.

For many landowners, such long-term seasonal or annual leases for a set price per acre or lump sum seem to be the easiest to negotiate and require the least oversight. If you are satisfied with this type of arrangement, the lease fee is satisfactory, and the lessee has demonstrated appropriate and responsible care of the land and resources, you can continue such annual leases on a multi-year arrangement.

Long-term leases have advantages and disadvantages. The advantages are that such leases generally result in better landowner-lessee relationships, because you get to know the lessees personally, helping to build trust over time, and the lessees get to understand what your objectives are, and they become interested in helping manage the property to meet these objectives. The longer time that lessees lease a property, the better they come to know it, and the more likely they will become interested in working with you to improve habitat management for wildlife. The more provincial interest they develop in the property, the more they will help to prevent trespass and poaching. If you are satisfied with the long-term arrangement, you can project anticipated income.

The disadvantage is that sometimes such long-term lease arrangements make it difficult to increase lease fees when you need to, and some lessees take such an interest that they begin to think of the property as theirs and forget to honor your rights. However, both sportsmen and landowners are more often willing to make time, labor, and financial investments in leased property when they know they have a secure arrangement for more than 1 year or season. Such long-term lease arrangements can be for specific game species only or offer hunting for all legal game species to the lessee. It can include such other activities as scouting before hunting seasons, camping, and fishing, if available.

If you are active in the day-to-day management of the property, you may also choose to lease access rights for hunting one particular species to one hunter or group of hunters and to yet another hunter or group of hunters for hunting another species. An example would be deer hunting to one group and spring turkey hunting to another, or dove hunting to one group and waterfowl hunting to another. Obviously this works best when seasons do not overlap. These leases usually return the most annual income but clearly also require the most intensive involvement of you or a manager. They also require more labor, time, and

habitat management investments, such as providing dove fields, food plots, waterfowl blinds, and other requirements.

Short-term leases can be on a daily permit basis, such as for dove hunting; a per weekend basis for deer or waterfowl hunting; a weekly basis during a special season, such as bow hunting or muzzle-loader hunting; or a one-season, special management type of hunt, such as a late-season doe hunt only. Some of these hunts can be packaged to include guides, lodging (on the lease property or at a local motel), and meals. Clearly this type of leasing arrangement requires intensive management and marketing for greatest success, but it can yield a higher rate of return and does not obligate the entire property for an entire hunting season or year. In other words, you can provide access to limited portions of the land for shorter periods of time and can limit the hunting to the species desired.

Hunting leases can be developed by sportsmen contacting you directly about the potential of leasing your land for hunting rights access, or a broker may make such arrangements. However, more and more landowners interested in leasing their land for hunting access are finding that newspaper and magazine ads or a website will often locate willing hunters or groups of hunters interested in leasing tracts of land for hunting privileges. There can be some advantage for some owners, particularly non-resident landowners, in having a broker take care of the advertising and locating and dealing with responsible lessees and with neighboring land-owners. Another advantage is the broker can help ensure the lessees honor their lease and pay on time. However, such brokers will come at a cost.

Before beginning a hunting lease program, you need to consider a number of things and be prepared to spend some time, labor, and resources to determine the value of your resources, how to manage and sustain them as renewable natural resources, what your long-term objectives are, and if such a leasing program is compatible with your other land management objectives. You also should recognize the advantages and disadvantages of leasing your land for hunting, such as these:

■ *Advantages*

- ✓ Can be a dependable source of additional annual income
- ✓ Can provide in-kind labor assistance from lessees

- ✓ Can help reduce trespass problems
- ✓ Can help you gain better control of who is using the land for what purposes
- ✓ Can complement other land management operations
- ✓ Can improve other recreational opportunities
- ✓ Can benefit local community economy
- ✓ Can help you better manage wildlife habitat and populations

■ *Disadvantages*

- ✓ Increased liability concerns and costs
- ✓ Will require increased landowner or manager involvement of dealing with lessees
- ✓ Could mean some tradeoffs in other operations
- ✓ Could present conflicts with neighbors
- ✓ Likely to require some investment in habitat and access management
- ✓ Will require record keeping, evaluation, and business management

HUNTING LEASE AGREEMENTS

Without question, most hunting leases should be undertaken only with a written agreement. Such an agreement serves as a contract that protects the agreed-upon rights of both you (lessor) and the lessee. The significance of a well-considered written lease agreement cannot be overemphasized, since it is the foundation for a successful hunting lease program. Effective hunting lease agreements protect your interests, yet allow enough flexibility to permit enjoyment of the access rights provided to the lessees. Such leases can be developed from “boiler-plate” examples but can be customized to protect you against later conflicts. A lease must be well thought out before being finalized and agreed to by you and lessee. Most of the potential conflicts between you and lessees can be prevented and a good working relationship can be maintained by having a mutually agreed-upon written lease. Some “boiler-plate” examples of written hunting leases are provided in the back of this publication for examination and modification to meet individual needs. Your needs and desires are paramount but

must be tempered by recognizing the needs and desires of the lessees and what they are willing to pay for.

■ *Considerations when Developing A Lease Agreement*

- ✓ **References**—If you are not familiar with individuals or groups who desire to lease your property, you should not hesitate to ask for references. You may get references from other landowners who leased to the lessees previously or from conservation officers or community leaders who know the potential lessees.
- ✓ **Proof of liability insurance**—As part of the lease agreement, you can require the lessee to pay for liability insurance (with your name listed on the policy) and provide proof of coverage by keeping a copy of the insurance policy with proof of purchase. Requirements for liability insurance can be written into the lease agreement. Be sure such policies cannot be canceled during the lease time. This precaution transfers a large portion of the liability to the lessee. Otherwise, you are responsible for the costs of appropriate liability insurance coverage to ensure your protection.
- ✓ **Establish and maintain open communication**—An open channel of communication from the beginning prevents potential misunderstanding between you and lessees. For hunting clubs or organized groups of lessees, try to arrange a time before the hunting season to meet with the group and get to know them.
- ✓ **Organized groups/hunting clubs**—Hunting clubs should be well organized and governed by self-regulating bylaws and have a designated contact person. A sample of hunting club bylaws is provided in the back of this publication. You should receive a copy of adopted bylaws.
- ✓ **Lease to local people when possible**—Locals, if willing to pay, can often help look after your property. Having such local participation often avoids the resentment of the “outsider.”
- ✓ **Annual meetings**—You should meet with groups or hunting clubs who lease your land at least once each year before the hunting season to discuss land use changes, modifications that may be needed to the lease agreement, or your need

for some help improving habitat or hunting opportunities.

- ✓ **Limit hunters and guests**—For the benefits of safety, enjoyment, and protection of the resource, the number of hunters must be restricted. For example, too many hunters using the property at any one time during the season may compromise the safety, enjoyment, and sustainability of the resources. Here are some rules of thumb for consideration with exceptions for different kinds of habitat and hunting: for deer hunting, one hunter per 100 acres; for waterfowl hunting, one hunting party per 100 acres of wetlands or waterfowl habitat; and for turkey, one hunter per 200 acres.
- ✓ **Written rules**—Consider drafting written rules aimed at preventing potential accidents and protecting property, especially if there are known hazards, such as old wells, sinkholes, and other risks to personal safety on the property. Make sure all lessees are aware of these written rules, and have them sign a statement that they have read and understand them.
- ✓ **Incorporation**—Hunting club representatives (officers) cannot legally represent the entire club when signing a lease agreement unless the club or group is incorporated. If the club or group is not incorporated, each member of the club/group must sign and date the written lease agreement.
- ✓ **Liability risk reduction**—In addition to requiring the club/group to purchase an insurance policy to cover liability, you should practice a risk-reduction program that reduces all known hazards on the property. Keep records of such efforts to reduce or eliminate known and potential risks to lessees. You should keep accurate records in case of a libel suit. Identify hazards you cannot reduce or eliminate, and explain them to lessees with a map and written description.

Here are other considerations: If ATVs are to be used on the property, require additional rider insurance from lessees. Avoid single-strand cable gates, or have them clearly marked and flagged. If portable tree stands are to be used, make sure lessees' liability insurance covers such use, or require permanent stands to be used. In accord with state law, require hunters to pass an approved hunter safety program and show a certificate of completion. (Anyone born

after January 1, 1972, is legally required to complete a hunter education course before purchasing a Mississippi hunting license. Also, anyone 12 years of age but under 16 years of age must have a certificate showing completion of a hunter education course approved by the Department of Wildlife, Fisheries, and Parks before hunting in Mississippi.)

- ✓ **Attorney lease review**—Have an attorney review the written lease before it is agreed to and signed by either party. This helps protect both parties and clarifies that the agreement is legal and binding.
- ✓ **Up-front payment**—The agreed-upon lease payment should be made before the hunting season begins, preferably before the date of the lease period. This ensures that payment is made before the hunt begins, and it allows the owner the potential of investing the funds and earning interest.
- ✓ **Permanent structure policy**—You may or may not want the lessee to put up permanent structures, such as buildings, sheds, or cabins. If you do permit any of these, you should decide what types of structures to allow and what should happen to these structures if and when the lease is terminated.
- ✓ **Vehicle restriction**—You may want to restrict what type of vehicles may be used on identified roads and trails and/or restrict the use of particular types of vehicles to certain roads on the property.
- ✓ **Notification of presence**—You may require hunters to check in and out via a check station or notify you in advance by phone or in writing when hunting or otherwise accessing the property.
- ✓ **Arbitration**—Disputes can arise, regardless of how well the lease agreement is written. Some leases specify using arbiters who were agreed upon in advance by both parties. The arbiter should be a neutral party, such as an attorney, conservation officer, or other mutually agreed-upon individual.
- ✓ **Game law violations**—In case game laws are violated, unintentionally or intentionally, the club/group bylaws need to ensure the violation is reported to both the local conservation officer and to the landowner.

- ✓ **Automatic lease renewal**—If you are pleased with the lessee(s), you may want to provide for an automatic lease renewal agreement consideration. This can be put into effect barring conflicts or need for some change in the agreement, if agreed upon 90 days before the lease terminates. This may be an advantage for both parties if things are going well.

■ *Suggested Items to Include in a Written Hunting Lease*

- ✓ Your name, address, and phone number, and the same information for the hunters, group, or club (lessees).
- ✓ The purpose of the hunting lease, describing the species of game allowed to be hunted as well as other activities allowed on the property, such as camping, fishing, scouting, permanent structure placement, and disposal.
- ✓ A description of the property with the location of the tract, boundaries, and areas off limits to hunting access. You should also provide a map with the property description. It is wise to conduct a tour of the property or tract to be leased with lessees to point out clearly marked property boundaries as well as any known restricted-use areas or hazards. In the description, it is helpful to point out the present condition of the property, such as 20-year-old pine plantation, row-crop areas, pasture, restricted areas, and reasons for restrictions.
- ✓ The duration of the lease, describing the beginning and ending dates of the lease, whether seasonal or annual or longer term.
- ✓ The method of lease payment, stating how much the lessees must pay and a date when payment must be received. Penalties for late payment can be described but must be well in advance of the beginning of the hunting season.
- ✓ Damage provisions and a deposit (if you think this is needed) to cover the costs of damage or loss of your property, livestock, or other resources if not repaired or compensated. Such damage provisions should specify that the lessees are responsible for any damages or losses they or their guests (if allowed) cause to the property or to your assets. You should return damage deposits to the lessees if damage is

corrected or does not occur during the effective lease period.

- ✓ A termination of lease clause with provisions to cancel a lease agreement if either party fails to abide by the terms of the written lease agreement, such as a lessee's violating state or federal game regulations. It must also ensure your or your heirs' right to cancel a lease if you sell the property or if you die within the effective lease period.
- ✓ A subleasing clause that specifies whether the lessees can sublease or assign leasing rights to a third party. You should avoid the idea of subleasing your property to third-party access by the original lessees.
- ✓ The lessee's responsibilities should be clearly defined within the agreement to include these items: closing gates and repairing broken fences; obeying all state and federal game regulations; helping put out wildfires; evicting trespassers or at least immediately contacting the owner or local law enforcement personnel; adhering to the management plan regarding game harvest recommendations; keeping good game harvest records; appropriately posting the property; obeying restrictions on the use of alcohol; and properly using off-road vehicles.
- ✓ The lessor's responsibilities should be clearly defined within the lease to include duties (as you agree to provide) such as maintaining roads, planting food plots or preparing fields for dove hunting, and providing facilities for lodging or for cleaning and storing harvested game. Obviously, these duties and amenities have a cost, and you will have to consider them in the cost of the lease.
- ✓ Your rights as the landowner must be clearly stated in the lease, such as the right to continue to manage the land to meet your identified objectives, the right to allow family members defined hunting privileges, and the right to request removal of a club or group member who violates property or approved behavior codes.
- ✓ You can add indemnity clauses or "hold harmless" disclaimers to the lease agreement. These may protect you from liability if someone is injured on your land. You can use them as proof that an injured lessee assumed the risks of doing a particular activity like climbing a tree or

crossing a fence. They do not, however, relieve you of liability associated with demonstrated negligence.

- ✓ The number of members allowed in lessee clubs/groups.
- ✓ The number of guests, if allowed, and the number of total lessees and invited guests that may be on the property to hunt at any specific time.

■ *Determining Hunting Lease Price Structure*

If you have no experience leasing land for hunting access, one of the most difficult decisions is determining a fair market price that is competitive yet gives you a reasonable return for the lease and any services or amenities provided. The following are known methods but are by no means the only methods:

- ✓ **Break even plus 10 percent**—The lease price is based on management and costs associated with the lease operation plus 10 percent to cover unforeseen costs and the need for the lease to cover operational costs and land taxes.
- ✓ **Habitat valuation**—The lease price is determined from a subjective rating of the quality and quantity of wildlife habitat available. For example, if the wildlife habitat and populations have been managed to provide high populations of wildlife and better than average hunting opportunities, the value of the lease may be higher, or if the lessees want to limit or keep out other hunters that the property could reasonably sustain, they may have to pay a premium price for that.
- ✓ **Baseline plus value-added**—You charge a base price per acre plus charges on improvements made, amenities, or services provided.
- ✓ **Competitive pricing**—You base the lease price on the going rate of other leases in the area or lease prices charged elsewhere for similar access, services, and amenities provided.
- ✓ **Sealed bid**—This is similar to timber sales in that you develop a description of the hunting lease and what it offers, and you request sealed bids. You can do this via advertising or by contacting individuals or hunting groups who may have an interest.

HOW TO FIND A RESPONSIBLE LESSEE

It may be difficult to identify and locate responsible hunters who will take an interest in the land and resources being leased and who will respect the property and abide by terms and conditions in a written lease. It will pay dividends in the long term, however. Without appropriate screening of lessees, you may find yourself with an unmanageable group who have no regard for your rights or maintaining the property and the sustainability of the habitat and wildlife. Many problems could arise, such as trash dumping, wildfires, road and tree damage, illegal hunting, damage to facilities and livestock, and overharvest of the game resource. For the most part, you can avoid these problems by using these practices:

- ✓ leasing to known hunters with some local members
- ✓ developing and using a well-constructed written lease that protects your interests. If the club or group is not incorporated, every member must sign; if the club or group is incorporated, the representative must make sure every member has read and understands the lease.

After you locate interested lessees, ask them to provide a list of references, and use this list to ensure they have not had problems in the past leasing lands from other landowners and that they are known to be responsible and ethical hunters. If the lessees pass this background check, conduct a personal interview with them or their representative, if the group is incorporated. Develop a list of questions in advance that you want to have answered, and don't be afraid to ask tough questions. Then use all the information to make an informed decision.

■ *Trespass*

In Mississippi, it is illegal to enter private lands without permission from the landowner. Hunting, fishing, or trapping on land without permission of the landowner is a misdemeanor punishable by a fine and possible imprisonment. The trespass law is enforceable by conservation officers and county sheriffs.

SUMMARY

Recreational access leases have become an important source of alternative income for many forest and agricultural landowners in the South, as well as in other parts of the United States. Most forest industry landowners and managers now consider income from recreational access leases as a vital part of their resource and financial decision-making process.

If you as a private landowner consider such leases as an alternative enterprise to supplement your income, you should understand the advantages and disadvantages of the leases. You also must consider and remember you are not selling wildlife, which is publicly owned. You are selling the opportunity and privileges that go with access to your land for the purposes specified in the written lease agreement. Having some idea of the habi-

tat quality and status of wildlife populations on your land will be important in making decisions. The sustainability of your renewable resources is the key to long-term income potential as well as sustainability of the operation. Recreational access/hunting leases can become an enjoyable and rewarding experience for you (lessor) and others (lessees) with advance planning, preparation, management, and communication.

As far as the economic potential of hunting leases, the range of returns varies considerably based on the type of lease. One example would be high-quality waterfowl blinds leases that bring the highest annual returns per acre of access, versus leases for small-game hunting that may be as low as 50 cents per acre, to high-quality, big-game leases that may go for as much as \$25 per acre or more in some areas.



SAMPLE HUNTING LEASE AGREEMENT

This hunting lease agreement is for educational purposes only. It is important to check with your attorney before writing and signing a binding legal agreement. You may want this lease to be more detailed or include more requirements, or you may want it to be less detailed. If you want to provide other services or rights, such as guides, cleaning game, or allowing the lessee to improve the habitat, you should include those provisions.

STATE OF:

COUNTY OF:

TRACT:

This Lease Agreement (the "Lease") entered into as of the day of _____, by and between _____ hereinafter referred to as Lessor, and _____ a/an (state whether an individual, a partnership, corporation, or unincorporated association) hereinafter referred to as Lessee.

The Lessor agrees to lease the Hunting Rights, as defined below, on _____ acres more or less, to Lessee for _____ (\$_____/Acre), for a term commencing on _____, (the "Commencement Date") and ending on _____ (the "Expiration Date") on the following described property (the "Land").

See Attached Description

The Hunting Rights shall consist of the exclusive right and privilege of propagating, protecting, hunting, shooting and taking game and waterfowl on the Land together with the right of Lessee to enter upon, across and over the Land for such purposes and none other.

This Hunting Lease Agreement shall be subject to the following terms and conditions:

PAYMENT

1. The Lessee shall pay to the Lessor _____, the amount of one (1) year's Rent in full, on or before _____ by check payable to Lessor.

COMPLIANCE WITH LAW

2. Lessee agrees for itself, its licensees and invitees to comply with all laws and regulations of the United States and of the State and Local Governments wherein the Land lies relating to the game or which are otherwise applicable to Lessee's use of the Land. Any violation of this paragraph shall give Lessor the right to immediately cancel this Lease.

POSTING

3. Lessee shall have the right to post the Land for hunting to prevent trespassing by any parties other than Lessor, its Agents, Contractors, Employees, Licensees, Invitees, or Assigns provided that Lessee has obtained the Lessor's prior written approval of every sign designed to be so used. Every such sign shall bear only the name of the Lessee. Lessor reserves the right to prosecute any trespass regarding said Land but has no obligation to do so.

LESSOR'S USE OF ITS PREMISE

4. Lessor reserves the right in itself, its Agents, Contractors, Employees, Licensees, Assigns, Invitees, or Designees to enter upon any or all of the Land at any time for any purpose of cruising, marking, cutting or removing trees and timber or conducting any other acts relating thereto and no such use by Lessor shall constitute a violation of this Lease. This right reserved by Lessor shall be deemed to include any clearing, site preparation, controlled burning and planting or other forestry work or silvicultural practices reasonably necessary to produce trees and timber on the Land. Lessee shall not interfere with Lessor's rights as set forth herein.

GATES/BARRIERS

5. Lessor grants to Lessee the right to install gates or other barriers (properly marked for safety) subject to the written permission of Lessor and the terms and conditions relating thereto as set forth elsewhere in the Lease, on private roads on the Land, and Lessee agrees to provide Lessor with keys to all locks prior to installation and at all times requested by Lessor during the term of this Lease.

ROAD OR FENCE DAMAGE

6. Lessee agrees to maintain and surrender at the termination of this Lease all private roads on the Lands in at least as good a condition as they were in on the date first above-referenced. Lessee agrees to repair any fences or other structures damaged by itself, its licensees or invitees.

ASSIGNMENT

7. Lessee may not assign this Lease or sublease the hunting rights the subject of this Lease without prior written permission of Lessor. Any assignment or sublease in violation of this provision will void this Lease and subject Lessee to damages.

FIRE PREVENTION

8. Lessee shall not set, cause or allow any fire to be or remain on the Land. Lessee covenants and agrees to use every precaution to protect the timber, trees, land, and forest products on the Land from fire or other damage, and to that end, Lessee will make every effort to put out any fire that may occur on the Land. In the event that any fire shall be started or allowed to escape onto or burn upon the Land by Lessee or anyone who derives his/her/its right to be on the Land from Lessee, Lessor shall have the right immediately to cancel this Lease without notice, and any payments heretofore paid shall be retained by Lessor as a deposit against actual damages, refundable to the extent such damages as finally determined by Lessor are less than said deposit. In addition, Lessor shall be entitled to recover from Lessee any damages which Lessor sustains as the result of such fire. Lessee shall immediately notify the appropriate state agency and Lessor of any fire that Lessee becomes aware of on Lessor's lands or within the vicinity thereof.

INDEMINIFICATION AND INSURANCE

9. Lessee shall indemnify, defend and hold harmless Lessor, its directors, officers, employees and agents from any and all loss, damage, personal injury (including death at any time arising therefrom) and other claims arising directly or indirectly from or out of any occurrence in, or upon, or at the said Lands or any part thereof relating to the use of said Land by Lessee, Lessee's invitees or any other person operating by, for or under Lessee pursuant to this Lease. Lessee further agrees to secure and maintain a \$1,000,000 public liability insurance policy in connection with the use of the Land with Lessor named as

insured and with such insurance companies as shall be agreeable to Lessor. This indemnity shall survive the termination, cancellation or expiration of this Lease.

RULES AND REGULATIONS

10. Lessor's rules and regulations attached hereto as Exhibit "A" are incorporated herein by reference and made an integral part hereof. Lessee agrees that any violation of said rules and regulations is a material breach of this Lease and shall entitle Lessor to cancel this Lease as its option effective upon notice by Lessor to Lessee of such cancellation.

Lessor reserves the right from time to time, to amend, supplement or terminate any such rules and regulations applicable to this Lease. In the event of any such amendment, supplement, or termination, Lessor shall give Lessee reasonable written notice before any such rules and regulations shall become effective.

MATERIAL TO BE SUBMITTED TO LESSOR

11. If this Lease is executed by or on behalf of a hunting club, Lessee shall provide Lessor, prior to the execution hereof, a membership list including all directors, officers, and/or shareholders, their names and addresses and a copy of Lessee's Charter, Partnership Agreement and By-Laws, if any. During the term of this Lease, Lessee shall notify Lessor of any material change in the information previously provided by Lessee to Lessor under this paragraph 11.

LESSEE'S LIABILITY RE: TREES, TIMBER, ETC.

12. Lessee covenants and agrees to assume responsibility and to pay for any trees, timber or other forest products that may be cut, damaged, or removed from the Land by Lessee or in connection with Lessee's use of the Land or any damages caused thereupon.

NO WARRANTY

13. This Lease is made and accepted without any representations or warranties of any kind on the part of the Lessor as to the title to the Land or its suitability for any purposes; and expressly subject to any and all existing easements, mortgages, reservations, liens, rights-of-way, contracts, leases (whether grazing, farming, oil, gas or minerals) or other encumbrances or on the ground affecting Land or to any such property rights that may hereafter be granted from time to time by Lessor.

LESSEE'S RESPONSIBILITY

14. Lessee assumes responsibility for the condition of the Land and Lessor shall not be liable or responsible for any damages or injuries caused by any vices or defects therein to the Lessee or to any occupant or to anyone in or on the Land who derives his or their right to be thereon from the Lessee.

USE OF ROADS

15. Lessee shall have the right to use any connecting road(s) of Lessor solely for ingress, egress, or regress to the Land; such use, however, shall be at Lessee's own risks and Lessor shall not be liable for any latent or patent defects in any such road nor will it be liable for any damages or injuries sustained by Lessee arising out of or resulting from the use of any of said Lessor's roads. Lessee acknowledges its obligation of maintenance and repair for connecting roads in accord with its obligation of maintenance and repair under paragraph 6.

SURRENDER AT END OF TERM

16. Lessee agrees to surrender the Land at the end of the term of this Lease according to the terms hereof. There shall be no renewal of this Lease by implication or by holding over.

MERGER CLAUSE

17. This Lease contains the entire understanding and agreement between the parties, all prior agreements between the parties, whether written or oral, being merged herein and to be of no further force and effect. This Lease may not be changed, amended or modified except by a writing properly executed by both parties hereto.

CANCELLATION

18. Anything in this Lease to the contrary notwithstanding, it is expressly understood and agreed that Lessor and Lessee each reserve the right to cancel this Lease, with or without cause, at any time during the Term hereof after first giving the other party thirty (30) days prior written notice thereof. In the event of cancellation by Lessee, all rentals theretofore paid and unearned shall be retained by the Lessor as compensation for Lessor's overhead expenses in making the Land available for lease, and shall not be refunded to Lessee.

APPLICABLE LAW

19. This Lease shall be construed under the laws of the State first noted above.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be properly executed as of the day and year first above written.

WITNESSES:

SAMPLE HUNTING LEASE AGREEMENT

This hunting lease agreement is for educational purposes only. It is important to check with your attorney before writing and signing a binding legal agreement. You may want more details or fewer details than this lease includes. If you want to provide other services or rights, such as guides, cleaning game, or allowing the lessee to improve the habitat, they should be included.

_____, owner of _____ farm, (legal description of the land), county, (state), herein referred to as "Landowner," for good and sufficient consideration, as hereinafter set forth, leases hunting rights on those portions of the _____ farm, hereinafter described, to _____ and others so executing this agreement and hereinafter referred to as "Lessees," on the following terms and conditions:

1. The tract of land, hereinafter referred to as "lease" upon which hunting rights are granted, is the _____ farm described herein consisting of approximately _____ acres.

(description of land with aerial photograph if available)

Lessees understand the location and boundaries of said tract and agree that no hunting rights are granted hereunder on any tract other than the tract herein designated and that no hunting or discharging of firearms shall be done by Lessees while traveling to or from the lease.

2. This agreement and the rights and duties granted and incurred hereunder shall be for a term commencing with the opening of _____ season in 20____, and the closing of _____ season in 20____, as set for _____ County, (state), under regulations enforced by the (state wildlife agency) unless terminated pursuant to provisions of this agreement hereinafter set forth. Provided that either the Landowner or Lessee may cancel this agreement by giving written notice of its intent to do so thirty (30) days prior to the date that rental for the second or third year of the term here provided is due. In which event, Lessee shall be relieved of the obligation to pay further rental under the terms and shall deliver possession of the premises.
3. The consideration to be paid by Lessee to Landowner at _____ County, (state), is \$_____ in cash, one-half to be paid on or before June 1, 20____, and the balance to be paid on or before October 1, 20____. Failure to pay the second installment shall thereupon terminate and cancel the lease and the amount already paid shall be forfeited as liquidated damage for the breach of the agreement. A \$_____ deposit will be required to insure that lease premises are left in a clean and orderly condition. Farm personnel will inspect the premises within 30 days after the lease expires. If cleanup is necessary, the farm will accomplish such, and the \$_____ deposit will be forfeited by the Lessees. If the premises are determined by farm personnel to be clean and orderly, the \$_____ deposit will be returned to the Lessees within 60 days after expiration of the lease.
4. Lessees shall not assign this lease or sublet the leased premises without the written consent of _____.

5. Lessees shall at all times abide by and obey all state and federal hunting laws and regulations and Lessee shall be responsible for the conduct of Lessee's guests or members in connection with said hunting laws and shall be responsible for any violation of said hunting laws or regulations by said Lessee, its guests, or members. Any violation of the hunting laws or regulations of any governmental authority shall give rise to the right of immediate cancellation of this lease by the Landowner upon written notice to Lessees, and in the event of the cancellation of said lease due to violation of game laws by Lessees, its guests or members, no prorata of the rent previously paid shall be made, same to be forfeited as liquidated damages, and Lessees shall, upon receipt of such notice, immediately vacate and surrender unto the Landowner possession of the leased premises.

Lessees shall, during the period in which it has access to the leased premises, continually protect same against trespassers and squatters, and to the best of Lessee's ability have such persons apprehended and prosecuted.

6. This lease agreement is expressly made subject to the "General Conditions of the Lease," which are attached hereto as Exhibit "A," and made a part hereof for all purposes the same as if copied herein verbatim.
7. If Lessees default in the performance of any of the covenants or conditions hereof, including the "General Conditions of Lease," which are attached hereto as Exhibit "A," then such breach shall cause an immediate termination of this lease and a forfeiture to Landowner of all consideration prepaid. The Lessee shall have no further rights under the term of this lease agreement. In the event a lawsuit arises out of or in connection with this lease agreement and the rights of the parties thereof, the prevailing party may recover not only actual damages and costs but also reasonable attorneys' fees expended in the matter.
8. Landowner shall not be liable for any injuries, deaths, or property damage sustained by (1) any Lessees hereto, (2) any employees of Lessees, (3) any business invitees of Lessees, (4) any guest of Lessees, (5) any person who comes to the leased premises with the express or implied permission of Lessees on the _____ farm with permission of the Lessee hereunder except for such injury, death, or property damage as may be sustained directly as a result of Landowner's sole negligence. Lessee hereunder jointly and severally agrees to indemnify Landowner, his agents or employees against any claim asserted against Landowner or any of Landowner's agents or employees as a result of personal injury, death, or property damage arising through: (1) the negligence of a Lessee or any persons on the farm with the permission of a Lessee, or (2) through the concurrent negligence of a Landowner or his agents or employees any one or more of Lessees or any person on the _____ farm with the permission of the Lessee.

All minors permitted by Lessee to hunt, fish, or swim on the leased premises shall be under the direct supervision of one of their parents (or guardian), and when children are present on the leased premises, the parents shall be fully responsible for their acts and safety and agree to hold Landowner harmless therefor, regardless of the nature of the cause of damage, whether property or personal injury, to themselves or others.

- 9. The leased premises are taken by Lessee in an “as is” condition, and no representation of any kind is made by _____ regarding the suitability of such premises for the purpose for which they have been leased.

- 10. This lease may not be terminated or repudiated by Lessee except by written notice signed and acknowledged in duplicate before a Notary Public by Lessee, and such termination or repudiation shall not be effective until Lessee has mailed one executed copy thereof to Landowner by registered mail and filed the other executed copy thereof for record in the Office of the County Clerk, _____ County, (state). This lease shall be binding upon the distributees, heirs, next of kin, successors, executors, administrators, and personal representatives of each of the undersigned. In signing the foregoing lease, each of the undersigned hereby acknowledges and represents:

- (a) That he/she has read the foregoing lease, understands it, and signs it voluntarily; and
- (b) That he/she is over 21 years of age and of sound mind;

In witness whereof, the parties have set their hands this the _____ day of _____, 20_____.

LESSEES:	DATE:	LANDOWNER:	DATE:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	WITNESS:	DATE:
_____	_____	_____	_____
_____	_____	_____	_____

STATE OF _____
 COUNTY OF _____

The foregoing instrument was subscribed, sworn to, and acknowledged before me this _____ day of _____, 20_____, by _____ and _____.

My commission expires: _____

Notary Public

**EXHIBIT "A," GENERAL CONDITIONS OF LEASE
(EXAMPLES OF OPTIONAL CLAUSES)**

_____ LANDOWNER, LEASE TO _____ LESSEE

These general conditions of lease are applicable to the lease agreement between _____, hereinafter referred to as Landowner, 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 Lessee to furnish each hunter or guest with a copy of these general conditions of lease.
2. Lessees understand and agree that the leased premises are not leased for agricultural or grazing purposes and, consequently, taken subject to the rights thereof.
3. Lessee acknowledges that Landowner owns the property herein leased, primarily for agricultural purposes and the growing of timber. Lessee shall in no manner interfere or obstruct Landowner's farming, forestry, or livestock operations.
4. Landowner reserves the right to deny access to the leased premises to any person or persons for any of the following reasons: drunkenness, carelessness with firearms, trespassing on property of adjoining landowners, acts which could reasonably be expected to strain relationships with adjoining landowners, or any other activities which to the ordinary person would be considered objectionable, offensive, or to cause embarrassment to Landowner or be detrimental to Landowner's interest. Failure of Lessee to expel or deny access to the premises to any person or persons after being notified to do so by Landowner may result in the termination of this lease at discretion of Landowner.
5. No hunter shall be allowed to:
 - (a) Shoot a firearm from a vehicle;
 - (b) Erect a deer stand within 150 yards of the boundary of the herein leased premises;
 - (c) Permanently affix a deer stand in trees;
 - (d) Abuse existing roads by use of vehicles during wet or damp conditions.
 - (e) Fire rifles or other firearms in the direction of any house, barn, other improvements, or across any haul road located on the leased premises;
 - (f) Build or allow fires on the leased premises, except in those areas specifically designated by Landowner in writing, and, in event, shall be kept fully liable for such fires; and
 - (g) Leave open a gate found closed or close a gate found open.
6. Hunters shall at all times maintain a high standard of conduct acceptable to _____.

HUNTING CLUB BYLAWS

Hunting club bylaws should contain provisions that govern the day-to-day operation of the club. The bylaws should be adapted to local conditions that affect the club, its relationship with landowners, and the well-being of the land and wildlife resources. You should keep the bylaws as simple, concise, and understandable as possible for the benefit of the members and yourself. Some clubs develop bylaws that are too complex and extensive for the basic needs, and these often are too difficult to manage or enforce adequately. Bylaws should be written to be basic to the operation of the club or group's interest and to add others as needed based on the club/group's growth, changing needs, changing wildlife regulations, or changing landowner needs. Some examples of items that need to be considered when drafting bylaws are as follows:

- ✓ Guest privileges and/or regulations.
- ✓ Safety for members, for the landowners, and/or for property.
- ✓ Land management and stewardship of the property.
- ✓ Appropriate disciplinary procedures for all members and guests, if allowed.
- ✓ Rules of the hunt for all participants.
- ✓ Strict adherence to all state and federal wildlife regulations.
- ✓ Functional/operational committees, such as camp operation and maintenance, stand or blind placement and maintenance, food and cooks for organized hunts, and such.
- ✓ Maintenance of appropriate member and landowner relations.
- ✓ If management for quality deer is a club/group objective, this needs to be made clear in the bylaws.
- ✓ Any club/group self-imposed management requirements, such as no dogs, or use of trailing dogs for retrieving cripples or chasing deer. Also consider if other species are allowed to be hunted during regulated seasons, such as turkeys, squirrels, raccoons, waterfowl and such, and doves.

Hunting club/group bylaws are essential for many organized hunting operations, and if you have concerns about the legality of the bylaws and their enforcement, you may consult a lawyer. Clearly, one of the most important considerations must be that all members and invited guests understand and agree in writing to the adopted bylaws for them to be useful and effective. The items listed above are not all you need to consider. The list can be expanded based on the desires and needs of you and the membership.

LIABILITY INSURANCE FOR LANDOWNERS AND HUNTING CLUBS

Insurance is a contract where an insurer (insurance company) undertakes to protect the insured (person purchasing the insurance) against loss, damage, or liability from an unknown or possible event. The insured pays the insurer a premium for this coverage.

Liability insurance covers loss because of negligence. It does not cover loss because of an intentional act. You can greatly reduce negligence on most private lands through risk planning.

Liability insurance companies generally limit the total liability of the insurance company to a certain amount, which may be much less than the insured person may suffer. Therefore, liability insurance may not completely eliminate the loss that occurs, but it does reduce the risk of loss.

If you already have liability insurance on your property, you may be able to work with your insurer to add liability coverage for a hunting lease. Your insurer may require that the hunting club or lessees get liability insurance as part of the written lease agreement. You may want to prepare or have an attorney prepare a hunting club disclaimer that all hunting club members or lessees must sign that points out potential risks on the land. Some of these might be an abandoned well, livestock that may need to be avoided, and such. Disclaimers may not be legal, but they do serve to warn lessees of potential risks and may prevent a liability suit if the lessees ignore the identified risks they signed a waiver for.

Many insurance companies offer liability for hunting clubs or for landowners who lease their land for hunting or other recreational access. **The following list by no means includes all sources of information, but it does provide some sources of information about liability insurance, coverage, costs, and comparisons.** Another source you should not overlook is a rider to existing policies to cover recreational access including hunting.

If someone pays for access to your land to hunt or fish or for another recreational use, you owe that person certain duties of care, such as posting warnings as to dangerous conditions on the property, including potentially dangerous animals, abandoned wells, old buildings, and other structures. You may be liable for injuries to a hunter caused by another hunter if you are not covered by insurance. For example, liability may be based on your negligence if you allow too many hunters in a given area, or if you admit an intoxicated hunter who injures another hunter.

■ *Some Known Sources of Liability Insurance*

Southeastern Wildlife Federation's Hunting Club Liability Insurance Program

Contact: Ms. Carol Cash Turner, Insurance Agent, Southeastern Wildlife Federation, P.O. Box 1109, Montgomery, Alabama 36102. Telephone: (334) 832-9453. Premium rates are based on the number of members in the club and the limit of liability selected. SWF offers liability limits of \$300,000, \$500,000 and \$1 million in either Limited or Broad form. The Limited form excludes occurrences between members and/or guests. The Broad form also has \$25,000 Fire Legal Timber coverage. Both forms include a \$25,000 Accidental Death benefit and a \$1,000 medical Expense benefit for each member. There are no hidden charges, and as many as four landowners may be listed as "Additional Insured" at no extra cost. For any landowners over four, the cost per landowner is \$10 plus tax.

Davis-Garvin-Agency

Contact: Dr. Ed Wilson, Account Executive, P.O. Box 21627, Columbia, South Carolina 29221-9961. Telephone: (800) 845-3163 or (803) 732-0060. This agency provides two types of hunting lease liability packages: (1) for an individual hunting club; or (2) for a landowner with a large acreage or groups of landowners representing large acreages. The premium for hunting clubs is determined by the number of members and

guests, with the minimum premium being \$364 for a \$1 million per occurrence liability limit. The premium for large properties or groups of landowners is determined by the acreage involved, with the minimum acreage being 10,000 acres. The rate for a \$1 million per occurrence liability limit varies from 24 cents per acre plus tax for 10,000 to 49,000 acres to 17 cents per acre plus tax for 50,000+ acres.

Bramlett Agency

1000 Energy Center, Suite 104, P.O. Box 369, Ardmore, Oklahoma 73042. Telephone: (405) 223-7300. This company sells liability insurance for most types of hunting leases.

ISERA (International Special Event and Recreation Association)

Contact: Jim Quist, Underwriting Specialist, 8722 South Harrison Street, Sandy, Utah 84070. Telephone: (877) 678-7342 or (801) 304-3735. This company insures primarily shooting preserves and shooting ranges.

Worldwide Outfitters and Guide Association, Outfitters and Guides Underwriters Inc.

Contact: Jim Quist, 8722 South Harrison Street, Sandy, Utah 84070. Telephone: (877) 678-7342 or (801) 304-3735. This company insures primarily guides and outfitters for a variety of outdoor recreation activities, including hunting and fishing.

Outdoor Underwriters, Inc.

Contact: R. Tim Reed, CLU, Outdoor Recreation Insurance, P.O. Box 431, Wheeling, West Virginia 26003. Telephone: (800) 738-1300. This company is affiliated with the Philadelphia Insurance Companies and insures guides, outfitters, hunting clubs, and landowners with hunting leases for up to \$1 million per occurrence.

These are just some examples. Many other insurers may offer such insurance, including your present property insurer through an additional rider. However, the above contacts provide the opportunity to contact these insurers and compare coverage and costs.

For more information, these publications are available from your county Extension office:

P2308 Natural Resource Enterprises: Wildlife and Recreation—A Checklist of Considerations

P2310 Natural Resource Enterprises: Wildlife and Recreation—Hunting Leases

SRAC #479a Fee Fishing: An Introduction

SRAC #480 Fee Fishing Ponds: Management of Food Fish and Water Quality

SRAC #481 Development and Management of Fishing Leases

SRAC #482 Fee Fishing: Location, Site Development, and Other Considerations

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