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Legal Information for Broiler Growers

What's My Contract Got to Do With It?

Your contract sets the framework for your relationship with the company

Many poultry growers became growers because they wanted to be their own boss. However, while it is true that poultry growers are generally not considered employees of the company, your independence as a grower is limited by the requirements included in your growout contract. In addition to requiring you to provide the housing, equipment, and labor needed to raise the flock, the typical broiler production contract also requires you to take direction from the company during the growout period, allow company employees access to your property, and may even allow the company to take over your operation if they believe that you are not taking proper care of the flock. The contract will typically also set out things that you must not do, such as use any feed or medications not provided by the company or have any other fowl on your property.

Your contract will also determine critical issues such as how your pay will be determined and, typically, how any disputes between you and the company must be resolved.

Generally speaking, only what is written in the contract is legally binding

In general, you will be unable to enforce any oral promises made by company employees that are not also included in your written contract. This is because poultry growing contracts typically include clauses – called “merger” or “entirety” clauses – providing that the entire agreement between you and the company is in the written contract and anything not written in the contract is not part of the agreement.

You should read your contract carefully before you sign it to see if it contains an entirety clause. If it does, you should confirm that any important agreements and oral promises made by a company representative have been written into the contract. If a company employee will not put a promise in writing, this is a sign that the promise should not be counted on too much.

Can the contract be changed?

You and the company may agree to change your contract after you first sign it. If you do, make sure that you write the change down and you both sign it. Try to make sure that the person signing on behalf of the company really has the authority to make the change.

In many cases, a company will try to include a provision in the contract that gives it the right to change the payment schedule without having to get your agreement. Look for such a provision in your contract and, if you find one, make sure that you understand when and how the company can make these changes.

It is critical that you decide whether the contract is too risky before you sign it and before you borrow or invest large sums of money in reliance on receiving an acceptable contract. Do not assume that you will be able to change the contract if you discover a problem later. You will almost always be bound by the contract provisions unless you can persuade the company to change them.

Changing an existing contract or even asking for changes in a new contract can be difficult when you need flocks in order to make your mortgage payments or other obligations. Therefore, before taking on any significant new financial obligations, including beginning a growout arrangement for the first time, it is important to get a copy of the contract you will be signing and carefully review it to ensure that it says what you expect it to.

The company may not want to let you see the contract before it has inspected your chicken houses. However, the best time for you to weigh the pros and cons of the contract you are being offered is before you have borrowed large sums of money, mortgaged your farm and home, and built chicken houses. You will want to be able to walk away from the deal if the company will not agree to contract provisions that are acceptable to you.

How can I make sure I understand my contract?

The first step in understanding your contract is to read it carefully and make sure that you know how the contract addresses the following issues, which the federal Packers and Stockyards Act requires each poultry growing contract to set out:

1. If payment is based on ranking, what factors will be used when ranking growers?
2. How will feed efficiency conversion ratios be calculated?
3. Will you be liable for condemnations, including condemnations resulting from plant errors, or will the company?
4. How will condemnations of whole birds and parts be converted to live weight?
5. What per unit charges, if any, will you face for feed and other inputs furnished by the company?

It is also important for you to understand other specific terms that are included in the contract. Knowing what these terms are may help you to know what to look for. The following list describes clauses typically included in poultry growing contracts. Keep in mind that what your contract leaves out may be as important as what it says.

Definitions. Many contracts define certain terms used in the contract. These are helpful if a term could be interpreted in more than one way.

Length of the contract. Every contract should state how long it lasts. Many broiler growing contracts last for only one seven-week flock. Some companies have contracts with longer terms or that last for an indefinite period.

Timing/frequency/number of flocks. For contracts continuing for more than one flock, an important issue will be the frequency with which the company will place flocks in your houses. Most contracts state that you will be given birds when they are available. Unless your contract guarantees a minimum number of flocks per year, the number of flocks you will receive in a year is completely up to the company. A delay between flocks can have a significant effect on your bottom line.

Payment terms. The contract should show how your pay will be determined. Often the contract will make an attached payment schedule part of the contract. The most common payment method for broilers is to rank growers against others in their area who received birds at the same time. Other contracts provide for payment based on the square footage of the grower's houses. However payment is determined, every step in the calculation should be clearly described in the contract.

If your contract continues beyond one flock, check whether the contract provides for an adjustment in pay if your costs go up. Some contracts include a provision for annual adjustments.

Duties of the company. Many broiler contracts begin with a clause that sets out what the company must do to keep its end of the bargain. Typically, the company will promise to provide chicks, feed, medicine, veterinary care, and supervision. Some contracts state that chicks will be distributed randomly.

Duties of the grower. As discussed earlier, the contract will also set out your duties as the grower. Typically, this will include providing and maintaining housing and equipment, as well as providing labor and utilities. The contract may say you must meet company specifications for housing or equipment. It may say that you must be present when the birds are delivered and picked up. Generally, you must also agree not to raise any other birds on your land.

Title to birds. Your contract probably states that the company retains title to the birds at all times. Many contracts provide that you will be considered in violation of the contract if you attempt to give your creditors a lien on the birds.

Access to facility. Many poultry growing contracts state that you must allow company representatives into your chicken houses at all times. Such contracts generally also provide that the company can remove the birds or take over your operation if, according to the company, the birds are in danger or not being properly cared for. It will be important to know whether this determination is completely up to the company or if the contract provides some standards that must be used.

Natural disaster or mechanical failure. Many contracts do not address what happens if you are hit by a natural disaster or mechanical failure. If your contract says nothing about the risk of natural disaster or mechanical failure, it likely falls on you. A few contracts provide that the company will pay for your labor even if the birds are lost.

Disposal of litter and dead birds. If birds die under your care, not only will you lose the income you would have made from raising them, you may also bear the expense of disposing of them. Many contracts do not state who is responsible for disposing of litter and dead birds. Some contracts make compliance with all federal, state, and local environmental laws your responsibility as the grower.

Mandatory improvements. The company may make certain improvements a condition of getting a new contract. Many contracts do not address the issue of improvements. Contracts that do address improvements use a variety of approaches. Some contracts state that you must “cooperate” with suggestions for improvements, but do not explain what is meant by cooperate. Other contracts state that you must comply with reasonable requirements. Some contracts give pay incentives to growers who adopt certain improvements. A few contracts state that the company will pay for, or share the costs of, improvements.

Assignment. Many contracts state that the company may freely assign the contracts. This means that the company could merge or be sold, and your contract would be transferred to the new owners. Many contracts also state that you as grower must get the company’s permission before you may assign your interests.

Entirety clause. As discussed earlier, most poultry growing contracts include an “entirety clause,” which states that the written contract is the entire agreement between the parties. This means that any other important agreements between you and the company should be included in the contract or clearly and specifically referenced in the contract.

Right to Associate. Some contracts acknowledge your right to associate and bargain collectively with other growers and farmers without being retaliated against. You have this right under the federal Agricultural Fair Practices Act.

Ending the contract. If the contract is for more than one flock, it should state how it can be terminated and what notice is required before termination. You and the company should each have a way to terminate the contract. Many poultry contracts provide that they may be terminated for any reason. Other contracts say that they may only be terminated for good cause.

Alternative Dispute Resolution (ADR). Most contracts set out how any disagreements between you and the company must be handled. Many use one or more forms of Alternative Dispute Resolution. These include mediation, peer review, and arbitration. In some cases, if you agree to use ADR to resolve a contract dispute, you are giving up your right to go to court.

