



SPECIMEN

Cow Leasing Agreement (Long Term)

DRAFT DISCUSSION DOCUMENT

15. 3. 13

INTRODUCTION

This specimen agreement was drawn up to assist farmers intending to enter into dairy cow leasing contracts.

Farmers intending to enter into such an arrangement should draw up an agreed document with the help of their professional advisers. This specimen document puts forward possible options

GUIDE TO THIS SPECIMEN AGREEMENT

This specimen document provides that a person wishing to lease cows (the Operator) agrees with the Owner of the cows to lease them and manage them on lands available to the Operator. It has four main sections as follows:

In the first section (page 4) the parties, the Owner and the Operator, set out their names, addresses and PPS Numbers. When an agreement is reached, parties sign in this section.

The First Schedule, pages 5-6, contains sections to be completed by the Owner and Operator in which they fill in matters agreed between them such as commencement and duration of the agreement, fee agreed to be paid per cow per day, and location of land where the cows will be kept by the Operator.

The Second Schedule, pages 7-9, contains tables to be completed by the Owner and Operator. Table 1 is used to list and identify the cows in the contract and their body condition score at the time of transfer. Table 2 is for dates and details of vaccination programme agreed. (This specimen document provides that the operator will pay for all veterinary treatments including call-outs and the cost of vaccines.)

The General Terms and Conditions, pages 9-23, set out detailed legal terms of the agreement. This part of the document contains legal detail. Although sometimes seen by practitioners as legal jargon, the purpose of this section, however, is to provide clarity, in writing, about the rights and obligations of each party to a contract. This part of an agreement is very likely to be scrutinised in detail in the event of a difference of opinion or disagreement arising between the parties. The Owner and the Operator are

advised to carefully read, understand and amend this section as necessary with the assistance of their professional advisors before finalising and signing any agreement.

An appendix at the back of the document contains Teagasc guidelines on Body Condition Scoring.

DISCLAIMER

This suggested specimen agreement contains material in relation to cow leasing. It has been compiled to assist farmers to inquire and to discuss proposals and alternatives with their solicitors, financial advisers, accountants and other professional advisers. It is not intended for any other purpose. Independent advice should be obtained by each prospective party. Persons proposing to enter into a dairy cow leasing arrangement should request their own advisers to draft a document adapted to the needs and circumstances of the persons involved which complies also with the terms of all relevant legislation. While every effort has been made to ensure that any information contained in this specimen document is correct at the time of preparation, no liability whatsoever can be accepted by those who compiled this agreement, or by Teagasc for any loss suffered by any person as a consequence of relying on it or on any matter published in it or for any matter whatsoever. The draft legal document is intended as a specimen only. It should not be signed or adopted, even in part, without first taking specific legal advice from a solicitor and advice in relation in all relevant matters from accountants and all appropriate experts.

Agreement
(Cow Leasing – long-term)

This Contract is made this
[insert date]

Between

(Name).....

(Address).....

.....

PPS Number:

(who in this agreement is called the “Owner” and this will include his Executors
Administrators and Assigns)

And

(Name)

(Address).....

.....

PPS Number:

(who in this agreement is called the “Operator” and this will include his Executors
Administrators and Assigns).

The Owner and the Operator agree that the Operator will have custody of The Animals listed in Table 1A and 1B of the Second Schedule to this agreement on the lands described at Clause 4 of the First Schedule in this agreement for the duration of the Lease Period and in consideration of the payments and on the terms and conditions set out in this agreement and that ownership of The Animals shall be transferred from the Owner to the Operator on the End Date of this agreement in consideration of the payment by the Operator to the Owner on that date of the sum set out at Clause 3.2 of the First Schedule to this agreement

SIGNED BY THE OWNER:

in the presence of:

SIGNED BY THE OPERATOR:.....

in the presence of:.....

FIRST SCHEDULE

1. Commencement and Duration

Commencement Date:
[insert date of collection of Animals]

End Date:

This agreement comes into effect on the Commencement Date and shall remain in force until the End Date unless terminated earlier under the terms of this agreement. The Animals will be collected by the Operator from the lands of the Owner on the Commencement Date and from that date payments will start to arise and shall continue to arise until the End Date.

2. Value of Animals

The average value at the Commencement Date of this agreement of the Animals listed in Tables 1A and 1B of the Second Schedule is agreed by the parties to be
[Insert average value]

3. Payments

3.1 Amount and manner of payment

- (a) The payment payable under Clause 1 above by the Operator to the Owner is €..... per Animal per day.
- (c) All payments due shall be payable on the day of each month/quarter in arrears commencing on to the following bank account:

Account Number:..... Sort Code:.....

Bank IBAN:

Account Holder:

At (Name of Bank):

(Address of Bank):

- 3.2 The sum to be paid to the Owner by the Operator at the End Date of this agreement (=Average value of animals multiplied by number of animals) is:.....

4. Operator's Lands

The land on which the Animals are to be kept for the purpose of performance of this agreement by the Operator is.....
.....
[Address of land and Land Registry Folio Number:]

5. Rejection Periods

5.1 The period within which the Operator may reject Animals is within _____
[No. of days]

days of arrival of Animals to the Operator's Lands for the purposes of Condition 6.1 of the General Terms and Conditions of this agreement.

6. Planned start of calving

The date of the planned start of calving is:

The day of for Spring calving Animals
[day] [month]

The day of for Autumn calving Animals
[day] [month]

7. Penalty for late Calving

The penalty for late calving is:

€ per cow calving after the relevant date specified in Clause 6 of
[daily penalty] [Give date]

the First Schedule of this agreement

8. Facilitator

In the event of a dispute arising, the following person will be appointed as facilitator to help resolve any issues in accordance with Condition 24 of the General Terms and Conditions of this agreement.

Name:

Address:

Email address:

Contact Phone Nos.: Land line: Mobile:

SECOND SCHEDULE

[This page should also be signed on completion by the Parties]

Table 1A. List of the Animals in-Calf

[illegible]

I confirm the correctness of the above lists by my signature:

I confirm the correctness of the above lists by my signature:

[This page should also be signed on completion by the Parties]

Table 1B. List of the Animals which have already calved before the Commencement Date

[illegible]

I confirm the correctness of the above lists by my signature:

I confirm the correctness of the above lists by my signature:

Table 2. Agreed dates and details of vaccination programme for the Animals the subject of this agreement referred to in Condition 2.4 of the General Terms and Conditions of this agreement

	Vaccination Dates		
	First Vaccination	Second Vaccination	Booster Vaccination
Leptospirosis vaccine			
BVD vaccine			
Salmonella vaccine			
IBR vaccine			
Black Leg vaccine			

General Terms and Conditions

1. Definitions.

In this agreement the following terms shall have the following meanings save where the context otherwise requires:

“The Animals” means the Animals listed by tag number in Tables 1A and 1B in the Second Schedule in this agreement and denotes The Animals the subject matter of this agreement.

“Commencement Date” The Commencement Date means the date set out in the First Schedule under this heading and on which The Animals are collected by or on behalf of the Operator from the Owner and the date on which payments in respect of The Animals covered by this agreement commence

“Condition Score” means body condition scoring being the appraisal of cow fat reserves through a combination of handling and visual assessment on a scale of 1

to 5 (1 = extremely thin, 5=extremely fat) with increments of 0.25 as set out in Appendix 1 of this agreement.

“EBI” is a single figure profit index indicating the cow’s potential genetic merit. Higher cow EBI indicates the potential to generate higher profitability. For the purposes of this Agreement an overall average and range of cow EBIs should be agreed between both parties.

“End Date” is the date inserted under this heading at Clause 1 of the First Schedule and means the date on which this agreement will come to an end and on which title to the Animals shall pass to the Operator in consideration of the payment by the Operator to the Owner of the sum set out at Clause 3.2 of the First Schedule.

“Inspection Date” means the date on which the condition of pregnancy or otherwise of The Animals is established for the purposes of this agreement.

“Lease Period” means the period from the Commencement Date of this Agreement to the End Date of this Agreement as set out in Clause 1 of the First Schedule, and shall be inclusive of both those days.

“Like Stock” and “Like For Like” mean stock of the same age, range of age, genetic merit, type, breed, calving dates, body condition, somatic cell count and other characteristics.

“Operator’s Land” shall refer to the land described at Clause 4 of the First Schedule in this agreement.

“Owner” shall herein refer to the owner of The Animals listed in Tables 1A and 1B of the Second Schedule in this agreement which to be leased under this agreement to the Operator.

“Schedule” means a schedule in this agreement.

“Unsound” means an Animal suffering from a health problem or physical defect which is likely to affect production or put at risk other stock.

2. Warranties:

- 2.1 The Owner warrants to the Operator that the Owner is the true owner of The Animals free from any mortgage, instrument bailment or any charge.
- 2.2 The Owner warrants that the Animals listed in Tables 1A and 1B are in at least as good condition on the Commencement Date as on the Inspection Date.
- 2.3 The Owner warrants that The Animals are from a TB and Brucellosis free herd having achieved two consecutive clear tests for those diseases in accordance with Department of Agriculture, Food & the Marine Health Regulations.
- 2.4 The Owner hereby warrants/certifies that The Animals have been adequately and properly vaccinated as of the Commencement Date against the various diseases listed in Table 2 of the Second Schedule in this agreement.
- 2.5 Milking Facilities: The Operator warrants that the milking facilities on the Operator's Land to be used to milk the cows have been checked by an approved machine tester approved by both parties within three months prior to the Commencement Date and that the same are in good order and condition and all faults found have been rectified.

3. Lease Period

- 3.1 The commencement and duration of this agreement shall be as set out in Clause 1 of the First Schedule of this agreement unless terminated in accordance with Condition 3.2 hereof.
- 3.2 This agreement will continue until the provisions of Condition 3.3 below become operative unless otherwise terminated or extended as provided in accordance with this agreement.
- 3.3 The agreement can be terminated by mutual agreement in writing at an earlier date than the End Date set out in Clause 1 of the said First Schedule of this agreement on agreed terms in writing.

4. Scope

- 4.1 This agreement represents the entire agreement between the parties. No terms, promises, or representations are included other than those specifically stated in this written agreement.
- 4.2 This agreement may only be amended, extended or replaced by another agreement in writing, signed by or on behalf of both parties.

5. Transport of Animals

5.1 The Operator shall collect the Animals from the Owner's lands as agreed with the Owner in advance and transport them at his own cost to the Operator's Land as specified at Clause 4 of the First Schedule in this agreement in one or more batches as agreed.

6. Rejection of Animals by Operator

6.1 The Operator may within the rejection period set out at Clause 5.1 of the First Schedule of this agreement reject any Animals which are found to be Unsound, or empty if listed in Table 1A and return the same to the Owner at the Owner's expense unless otherwise agreed. The Owner shall forthwith replace such stock with Like Stock as originally intended and deliver the same to the Operator's Land at the Owner's expense. Any loss occurring for rejected stock shall be borne by the Owner.

7. Agreement to be performed on Operator's Land

7.1 The Animals shall be kept and housed on the Operator's Land for the duration of the Lease Period unless otherwise agreed between the parties in writing at any time during the Lease Period.

7.2 The Operator shall allow the Owner access to the property where The Animals are kept at all reasonable times to inspect, with reasonable prior notice.

7.3 Any proposed removal of The Animals to another location other than the Operator's Land as defined in this document shall require the prior written consent of the Owner.

8. The Animals

8.1 The Animals the subject matter of this agreement have been determined by the agreement of the Owner and the Operator prior to the signature hereof and these Animals are listed by their tag numbers in Tables 1A and 1B of the Second Schedule to this agreement.

8.2 It is agreed that The Animals have been examined as of the Inspection Date to establish the condition of pregnancy or otherwise of each of them.

8.3 It is agreed that The Animals listed by tag number in Table 1A in the Second Schedule of this agreement are pregnant and in-calf as of the date of inspection.

8.4 It is agreed that The Animals listed by tag number in Table 1B in the Second Schedule of this agreement have calved as of the Inspection Date.

8.5 Signature of this agreement is proof of acceptance by both parties of the condition of each of The Animals as listed in the said Tables 1A and 1B in the Second Schedule in this agreement as of the Inspection Date.

9. General Obligation to care for Animals

9.1 The Operator shall during the Lease Period, attend to, care for, feed, and manage The Animals in accordance with the best standards of animal husbandry, and good farming practice.

9.2 The Operator shall at all times during the Lease Period provide at his own expense, adequate and nourishing animal feed to The Animals which shall consist of good quality pasture, stored forages, supplementary feeds, ration balancing and bloat controls as appropriate.

9.3 The Operator shall supply at his cost, water, pasture, feed, vitamins and mineral, necessary shelter and all labour for supervision and care of The Animals, in order to promote growth, prevent disease and care for the well being of The Animals and their offspring.

9.4 The Operator shall keep The Animals in good condition, maintaining a condition score of not less than 2.75 at mating and 3.0 at calving.

9.5 The Operator shall provide animal housing and hygiene for the said Animals to a standard that is generally acceptable under good farming practice.

9.6 The Operator shall provide conditions that comply fully with the requirements of all regulatory authorities regarding animal welfare and disease control.

10. Animal health:

10.1 Each party shall inform the other party promptly in the event of discovery of Bovine Tuberculosis or Brucellosis on that party's lands or affecting any Animals whatsoever which might reasonably be considered to give rise to a risk of infection to animals of the other through contact arising from this agreement.

11. Animal health: Owner

11.1 The Owner shall ensure that The Animals are in good health and condition at the date of collection by the Operator

11.2 The Condition Score of each of The Animals on the Commencement Date of this agreement is agreed to be the number entered next to the tag number of each Animal in the column bearing the heading 'Animal Condition Score' in Tables 1A and 1B of the Second Schedule in this agreement.

11.3 Prior to movement of The Animals from the Owner's lands to the Operator's Land, the Owner shall obtain an AIM Certificate of Compliance for farm-to-farm movement of The Animals and give a copy of that certificate to the Operator.

11.4 The Owner shall ensure that animals persistently infected with Bovine Viral Diarrhoea (BVD) are not included among The Animals to be sent to the Operator's Land under this agreement.

11.5 If Animal insurance is taken out by the Owner, the cost of it shall be borne by the Owner.

12. Animal health: Operator

12.1 The Operator shall bear full responsibility for the health of The Animals for the duration of this agreement.

12.2 The supply and payment for vaccines and treatments during the Lease Period shall be matters for the Operator only.

12.3 The Operator shall notify the Owner within one day of the death of an Animal any loss occasioned by death, misadventure or disease of an Animal shall be borne by the Operator only.

12.4 Knackery charges shall be the responsibility of the Operator.

13. Title to Animals

13.1 The Animals are provided by the Owner and throughout the Lease Period shall remain the sole property of the Owner. The Operator shall have no right or title to the Animals during the Lease Period except the right to possession of the Animals in accordance with this agreement. It is hereby agreed that the title and ownership of The Animals remain with the Owner until the events provided for at Condition 21 hereto arise, provided always that the Operator will be at liberty to carry out normal culling if:

- an Animal is suffering from disease or serious ill health
- an Animal suffers from fertility problems
- the milk yield of an Animal is consistently uneconomic
- an Animal is suffering from ill-thrift

and also provided that the Operator replaces such Animal on a Like For Like basis and the replacement Animal will become the property of the Owner and the Owner shall be notified immediately of the identity of The Animal culled and of the replacement Animal in writing.

13.2 The Owner shall not create any charge on The Animals during the Lease Period.

- 13.3 The Owner shall not sell, assign, or transfer ownership of The Animals during the Lease Period without giving the Operator written notice within seven days of any such transaction and any such sale, assignment or transfer shall be subject to and with the benefit of this agreement and the Owner shall immediately furnish all necessary information to the Operator that is required to enable the Operator to comply with his obligations hereunder.
- 13.4 The Operator shall not assign, transfer or otherwise dispose of any of its rights or obligations under this Agreement without the prior written consent of the Owner.
- 13.5 The Operator shall not attempt to hold or hold himself out as having any power to sell, charge or otherwise dispose of or encumber any of the Animals and shall not without the prior written consent of the Owner voluntarily part with the possession or control of the Animals. The Operator shall make it clear to third parties that title to the Animals is held by the Owner in circumstances and on occasions where the ownership of the Animals may be relevant.

14. Ownership of Replacement Animals.

- 14.1 It is agreed that during the Lease Period the Operator shall have the right to cull and replace The Animals in accordance with Condition 13.1 hereof as circumstances dictate, provided however that the number of Animals on hand on a Like For Like basis shall never be less than the total number of animals listed in the Second Schedule to this Agreement.
- 14.2 The Operator shall at his own expense replace any Animals lost through death or disease or normal culling or otherwise during the Lease Period with Like Stock, such Animals being as close as possible in age, Condition Score, breed and quality to The Animal lost and such Animals shall be the property of the Owner for the duration of the Lease Period.
- 14.3 All replacement animals for sales and losses shall be subject to the terms of this agreement as though the same were the original Animals listed in Tables 1A and 1B and shall in all respects be subject to the rights of the Owner at all times to recover and repossess the same.
- 14.4 The Operator shall maintain The Animals in quality and in numbers by breeding or by replacement for retention on the land.
- 14.5 The Operator shall be entitled to retain as his own property all progeny born of the said Animals on the Operator's Lands during the Lease Period so that the Operator is deemed to be the owner of all Animals bred above the equivalent number of

Animals leased from the Owner to the intent that the Operator shall gain for his ownership all additional Animals.

14.6 The Owner will compensate the Operator at the rate specified in Clause 7 of the First Schedule of this agreement for every cow calving later than the date specified in that Clause.

15. Confidentiality and Records

15.1 The parties to this agreement agree to maintain and respect confidentiality in respect of its and of all and any knowledge of the affairs of the other party which might come to their notice in the course of the negotiation and implementation of this agreement.

15.2 Each party agrees to keep written records of all materials, labour, services and any other matter supplied for or paid for in connection with the implementation of the agreement and to keep and maintain (and retain for a period of six years) all records required by law and by EU and Department of Agriculture, Food & the Marine Regulations.

16. Payments

16.1 Payments shall fall due as and from the Commencement Date.

16.2 On each date on which the Operator is required to make a payment under Clause 3 of the First Schedule of this agreement, the Operator shall pay to the Owner such amount in immediately available funds at the time and in the manner agreed.

16.3 Such payments shall be made to the bank account specified in Clause 3.1 of the First Schedule of this agreement or to such bank account as the Owner shall from time to time specify.

16.4 Late payments made by the Operator to the Owner shall carry an interest payment of 1½ % per calendar month or part thereof.

17. Termination Events

17.1 Each of the events or circumstances set out in this Condition hereof is a Termination Event. Such events are breaches of fundamental terms and conditions of this agreement and the occurrence of any such Termination Event shall go to the root of this agreement. Accordingly the occurrence of such a Termination Event shall be a breach of condition and shall constitute a repudiatory breach of this agreement:

- (a) if the Operator does not pay within 14 business days of the due date any amount payable under this agreement;
- (b) if a Party does not comply with any provision of this agreement (other than as referred to in Condition 17.1(a) hereof) and, if the failure to comply is capable of remedy, it is not remedied within 14 days of the other Party giving notice to the Party in default of his obligations;
- (c) if any representation made or deemed to be made by or on behalf of either Party to this agreement or any other document relating to this agreement is or proves to have been incorrect or misleading in any material respect when made or deemed to be made;
- (d) if the Operator is unable or admits inability to pay his debts as they fall due, suspends making payments on any of his debts or, by reason of actual or anticipated financial difficulties, commences negotiations with a creditor with a view to rescheduling any of his indebtedness;
- (e) if any legal proceedings or other procedure or step is taken in relation to:
 - (i) the suspension of payments of the Operator;
 - (ii) a composition, assignment or arrangement with any creditor of the Operator;
 - (iii) any event similar to or analogous to any of the events set out in this Condition occurs in relation to the Operator in any relevant jurisdiction; or
 - (iv) any security interest over any asset of the Operator becomes capable of enforcement;
- (f) if during the Lease Period, any of the goods and chattels of the Operator are seized by any creditors of the Operator;
- (g) if the Operator becomes bankrupt.

18 Owner's Rights following Termination Event

- 18.1 At any time after the occurrence of a Termination Event (other than under Condition 17.1(g) above), the Owner may, by service of letter addressed to the Operator at the address for service of notices set out in this Agreement, on such date as the Owner specifies in the letter not being less than ten business days from service of the letter, terminate the leasing of the Animals to the Operator and the consent of the Owner to the possession of the Animals by the Operator under this agreement.
- 18.2 The Operator shall pay to the Owner forthwith on such termination of the leasing of, or obligation to lease, the Animals under Condition 18.1 hereof an amount equal to the aggregate of:

- (i) any payments due but unpaid by the Operator under this agreement;
 - (ii) the sum set out at Clause 2 of the First Schedule to this agreement unless the parties agree to return animals in lieu of some or all of this payment;
 - (iii) the amount of any losses incurred by the Owner in connection with that termination.
- 18.3 On the termination of the lease and in the event that agreed payment under Condition 18.2 hereof is not made to the Owner within seven days of the date specified at Condition 18.1 hereof the Operator shall no longer be in possession of the Animals with the consent of the Owner and without prejudice to any other claim or remedy available to the Owner, the Owner shall be entitled to retake possession of the Animals in accordance with Condition 18.2 hereof.
- 18.4 The Owner may put into force and exercise all its rights and entitlements at law and may enter upon any land or premises belonging to, or in the occupation or under the control of the Operator where any Animal is located for the sole purpose of retaking possession of that Animal.
- 18.5 The Owner shall make good to the Operator any damage caused by the Owner to any property of the Operator in the course of the exercise of the right described at Condition 18.4 above.
- 18.6 The Operator shall indemnify and keep indemnified the Owner against all and any actions claims or demands by any co-owner or any other party whatsoever arising out of the exercise by the Owner of rights under Condition 18 hereof.
- 19. Operator's Rights following Termination Event**
- 19.1 At any time after the occurrence of a Termination Event under Conditions 17.1(b) or 17.1(c) the Operator may, by service of letter addressed to the Owner at the address for service of notices set out in the First Schedule to this Agreement, on such date as the Operator specifies in the letter not being less than ten business days from service of the letter, terminate the Agreement and the obligation to make payments under this Agreement.
- 19.2 In the event of such Termination, the Owner shall arrange for the collection of the Animals from the property of the Operator at his own expense.
- 19.3 The Owner shall pay to the Operator forthwith on such termination of the leasing of, or obligation to lease, the Animals under Condition 19.1 hereof an amount equal to the aggregate of the amount of any losses incurred by the Operator in connection with that termination.

20. Exercise of rights

- 20.1 Subject as herein appearing, if the Operator fulfils the terms and conditions of this agreement, he shall and may peaceably possess and enjoy The Animals for the duration of this agreement without any interruption or disturbance from the Owner or any person claiming through the Owner.

21. Obligations on End Date of this agreement

- 21.1 Provided that no Termination Event has occurred and unless the parties agree otherwise in writing, the Operator shall purchase the Animals by paying to the Owner, on the End Date specified at Clause 1 of the First Schedule to this agreement, the sum set out at Clause 3.2 of the First Schedule.
- 21.2 Upon payment by the Operator to the Owner of the aforementioned sum, the Owner shall lose all claim, right and title to The Animals and they shall become the exclusive property of the Operator.
- 21.3 Except as referred to in Condition 2 of the General Terms and Conditions of this agreement, the Owner makes no warranties, guarantees or representations of any kind, express or implied, in respect of the Animals.
- 21.4 The Parties, in substitution for payment in money of the sum due under Condition 16 hereof or a portion thereof, may agree in writing that the Owner shall accept as payment in kind from the Operator specific animals to an agreed value to the satisfaction of both parties with appropriate arrangements for delivery or collection.

22. Death of a Party

- 22.1 Unless the parties have agreed otherwise in writing, if the Operator dies during the Lease Period, the Owner shall receive from the personal representative or the estate of the Operator the sum set out at 3.2 of the First Schedule and on receipt of this payment this agreement will be terminated and the Owner shall lose all claim, right or title to the Animals and the Animals shall become the exclusive property of the estate of the Operator.
- 22.2 The Parties, in substitution for payment in monetary terms of some or all of the sum due under Condition 18.2 hereof, may agree in writing that the Owner shall accept from the Personal Representative or estate of the Operator specific animals to an agreed value to the satisfaction of both parties with appropriate arrangements for delivery and collection.

22.3 Unless the parties have agreed otherwise in writing, if the Owner dies during the Lease Period, the obligations and rights of the Owner hereunder shall pass to the estate of the Owner and the Executors Administrators or Personal Representatives of the Owner shall furnish all necessary information to the Operator that is required to enable the Operator to comply with his obligations hereunder and the agreement shall endure for the Lease Period.

23. Owner to be agent and attorney for Operator

23.1 The Operator appoints the Owner his/her agent and attorney for the following purposes during the Lease Period at any time when a breach on the part of the Operator of the terms occurs.

(a) To receive, recover and deal with The Animals in the possession or control of the Operator;

(b) In respect of any claim adverse to the Owner's interests: or

(c) In respect of any money or proceeds of sale or conversion of such Animals as the Owner may in his discretion think fit and the Owner shall have power to sue and recover the same either in the name of the Operator or the Owner or otherwise.

All the costs and expenses of any process, procedure or proceedings shall be payable by the Operator and if advanced by the Owner shall be repayable to him by the Operator. This appointment made in favour of the Owner shall not be revocable during the Lease Period.

24. Prevention and Resolution of Disputes

24.1 Any dispute as to the terms and conditions of this Agreement and/or as to the subject matter hereof shall be resolved or determined in accordance with the provisions of this Condition.

24.2 Any such dispute shall in the first instance be referred to a Facilitator before it may be referred to Arbitration hereunder.

24.3 The Facilitator shall be the person named in Clause 8 of the First Schedule to this agreement or any third party agreed by the Parties in writing. The Facilitator shall have the power to nominate at his/her discretion, having consulted with the Parties, another person with particularly relevant skills to act in their place as Facilitator. The Facilitator shall also have the power to consult such a person while acting as Facilitator.

- 24.4 The opinion or recommendation of the Facilitator shall not be legally binding unless adopted by both parties and reduced to writing and recorded and signed as having being agreed between them.
- 24.5 Any dispute which is not resolved by referring it by agreement to the Facilitator as provided in this agreement shall be referred to conciliation in accordance with the provisions specified in this agreement before being referred to arbitration.
- 24.6 All disputes which arise between the parties and which have not been resolved by the intervention of the facilitator or under Condition 24.2 hereof, or by the conciliation process set out below hereto may be referred by either party to a single Arbitrator who shall have all the powers provided for an Arbitrator in the Arbitration Act 2010.
- 24.7 If the parties fail to agree on the choice of the Arbitrator, then the arbitrator shall be nominated by the President for the time being of the Law Society.
- 24.8 The Arbitrator shall have full power to dissolve this cow leasing agreement should he think fit. Any decisions made by the Arbitrator shall be final and binding on all parties.

25. Conciliation Procedure as referred to in Condition 24.5 of this Agreement

- 25.1 This procedure shall apply to any conciliation requested under Condition 24.5 of the Agreement.
- 25.2 A party to the Agreement seeking conciliation shall notify the other party to that effect and shall at the same time specify the matter in dispute.
- 25.3 The parties shall agree on a conciliator, and failing agreement within 10 days of notice under Condition 25.1 hereto, either party may request the Facilitator referred to at Condition 24.3 of the Agreement to nominate a conciliator to conduct a conciliation procedure.
- 25.4 The conciliator shall require the parties to submit, in advance of the hearing, a brief written opening statement and appending the necessary documentation not later than 10 working days after his appointment. The parties shall at the same time notify the conciliator of the names of the persons appearing at the conciliation.

- 25.5 The conciliator shall within 10 working days after receipt of statements and documentation establish the order of the proceedings and shall arrange a convenient time, date and place for the hearing.
- 25.6 The conciliator may consider and discuss such solutions to the dispute as he thinks appropriate or as may be suggested by either party. All information given to the conciliator is confidential and shall remain so unless authorised by the party who supplied the information.
- 25.7 The conciliator may, having informed the parties, consult independent third party experts.
- 25.8 The conciliator shall endeavour to commit the parties to reach a mutual settlement failing which he shall within 10 working days of the hearing, issue his recommendation. He shall not be required to give reasons. It shall remain confidential if rejected by either party.
- 25.9 If neither party rejects the recommendation within 10 working days after its issue, it shall be final and binding on the parties. If either party rejects the recommendation, a request for arbitration may be made under Condition 24.6 of this Agreement.
- 25.10 Each party to the conciliation shall pay their own costs. The parties shall be jointly and severally liable for the conciliator's costs in equal shares, unless the conciliator decides otherwise.
- 25.11 Conciliations are settlement negotiations and are without prejudice to the rights of the disputants. All statements, information and material, made, given or exchanges, orally or in writing either during the conciliation or prior thereto or thereafter upon the request of the conciliator once made in circumstances where the parties agree that same are wholly privileged and are on a without prejudice basis shall be inadmissible in any legal proceedings, in court or arbitration, to the maximum extent permitted by law. Evidence, which is otherwise admissible in legal proceedings, shall not be rendered inadmissible as a result of its use in the conciliation. The parties in dispute agree not to summon or otherwise require the conciliator to appear or testify or produce records, notes or any other information or material in any legal proceedings, in court or arbitration, and no recordings or stenographic records will be made of the conciliation.
- 25.12 Any agreement reached by the parties in dispute through conciliation shall be set down in writing and duly executed by them or their authorised representative.

26. Miscellaneous

- 26.1 Each party's address for the service of notices shall be the address set out below the name of the party at the commencement of this Agreement.
- 26.2 Any Notice given under this Agreement shall be in writing and may be served personally, by registered post or recorded delivery, or by any other means which a party specifies by notice to the other party as a means by which he is willing to accept service. A Notice shall be deemed to have been served
- (i) at the time of service, if it was served personally,
 - (ii) 48 hours after it was posted, if served by registered post or recorded delivery.
- 26.4 Nothing in this Agreement shall establish a relationship of employer and employee, or partnership, between the parties, and nothing in this Agreement shall be deemed to operate as or demise of property
- 26.5 If any provision of this Agreement at any time is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions shall not thereby be affected.
- 26.6 The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law. Failure or delay in exercising any right or remedy under this Agreement shall not operate as a waiver. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy.
- 26.7 Subject to any periods of grace referred to in this Agreement, time shall be of the essence as regards the performance by the parties of any obligations under this Agreement.
- 26.8 The indemnities contained in this Agreement shall survive any termination or other ending of the Lease Period and any breach or any repudiation or alleged repudiation of this Agreement by the Operator or the Owner.
- 26.9 This Agreement shall be governed by Irish law.
- 26.10 Each party shall pay his own costs/The parties shall pay in equal shares all the costs of and incidental to the preparation and execution of this Agreement and any further documents necessary to carry it into effect.

Examples of Body Condition Scores



**BODY
CONDITION
SCORE**
2.0



**BODY
CONDITION
SCORE**
2.5



**BODY
CONDITION
SCORE**
2.75



Pins: Prominent, skin tight, deep cavity under pins.
Loin: Sharp, readily visible (all 5 short ribs).
Ribs: Individually visible, hard, undulating.
Back bone: Prominent, jagged.
Hip-bone: Protruding, no flesh covering.
Eye-muscle area: Very concave (hollow).

Pins: Prominent, no fatty tissue under skin, cavity between pins and tail.
Loin: Readily visible, smooth and rounded.
Ribs: Visible, skin offers some flexibility.
Back bone: Prominent, smooth, may have some undulations.
Hip-bone: Protruding, little flesh covering.

Pins: Prominent, a little fatty tissue under skin, smooth, cavity between pins and tail.
Loin: Some cover, visible as distinct undulations, tips felt easily.
Ribs: Slight cover, easily felt, visible.
Back bone: Prominent but smooth.
Hip-bone: Protruding, flesh covering.



**BODY
CONDITION
SCORE**
3.5



**BODY
CONDITION
SCORE**
4.0



Pins: Not prominent, distinct cover, smooth.
Loin: Smooth and well covered, tips felt with slight pressure, tips visible as slight undulations.
Ribs: Smooth, firm pressure to feel, last two slightly visible.
Back bone: Rounded.
Hip-bone: Not very prominent, smooth.
Eye-muscle area: Slightly concave.

Pins: Almost submerged, good fold of flesh, cavity almost full.
Loin: Substantial cover chunky feel.
Ribs: Cannot be easily felt, firm cover.
Back bone: Flat.
Hip-bone: Smooth and well covered.
Eye-muscle area: No longer concave (flat).

Pins: Not visible, well covered with soft fatty tissue.
Loin: Thickly covered with flesh.
Ribs: Soft fat obviously present, jelly like feel.
Back bone: Well covered.
Hip-bone: Almost buried.
Eye-muscle area: Convex (raised).

Benefits

Fertility

- Body condition score less than 2.75:
 - lower submission rates and lower pregnancy rates after 6 weeks breeding (up to -15% units).
- Condition score loss greater than 0.5 units:
 - lower submission rates (up to -49% units).
 - lower pregnancy rates after 6 weeks breeding (up to -20% units).

Milk Yield

- Target pre-calving condition score:
 - 250 to 500kg (50 to 110 gallons) increased yield.

When to Score?

*Six herd assessments recommended

- Early October (Before drying off):** Cows in poor condition (less than 2.75) should be dried early (and/or supplemented) to meet target condition score for drying off.
- Mid-December (All cows dry):** Group and feed differentially if necessary to achieve required condition score at calving.
- Mid-March, Mid-April, Mid-May and Mid-June (Post-calving):** Monitor on a monthly basis from mid-March to mid-June to avoid excessive body condition score loss. This can occur rapidly in early lactation.
- *Schedule for spring-calving dairy herds:** For autumn-calving herds a comparable schedule of assessment should be conducted.

Authors
F. Buckley, P. Dillon, J. F. Mea, R.D. Evans and J. Kennedy (Teagasc, Moorepark Production Research Centre) and Con Hurley (Irish Farmers Journal).

Target Scores

	Herd average	Range
Drying off	3.0	2.75 to 3.25
Pre-calving	3.25	3.0 to 3.5
Start of breeding	2.9	2.75 to 3.25

Record Those Scores!



- ▲ Animal events recording notebook.
- ▲ Ease of recording.
- ▲ Ease of reference.

Booklet

eaGASC BODY CONDITION SCORING
A detailed booklet on Body Condition Scoring has been produced by Teagasc and the Irish Farmers Journal.
Available from your local Teagasc Office.
Benefits & Guidelines

Acknowledgements
Tony O'Gorman (Irish Farmers Journal) for photographs provided

BODY CONDITION SCORING

Benefits & Guidelines



- Three primary points assessed by handling:
 - Pins
 - Loin - short ribs
 - Ribs
- Four secondary points assessed visually:
 - Backbone
 - Hip bone
 - Eye-muscle area
 - Shoulder

What is Body Condition Scoring?
Body condition scoring is the appraisal of cow fat reserves through a combination of handling and visual assessment. It allows the subjective assessment of thin and fat cows regardless of frame size or breed on a scale of 1 to 5 (1 = extremely thin, 5 = extremely fat) with increments of 0.25.

Run hand firmly over 3 primary reference points

The flat hand is used to assess the degree of fat cover or bone prominence on the loin and rib areas.



RIBS



LOIN



PINS



The fingers are used to assess the area around the tail head and pin bones.

Visual Scoring Alone is Not Recommended!