



SPECIMEN

Contract Forage Cropping Agreement

INTRODUCTION

This specimen agreement was drawn up to assist farmers intending to enter into contract forage cropping agreement. This version proposes a staged payments contract whereby payments are made by the purchaser to the grower in three installments as agreed between the parties.

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 certain possible terms for such an agreement.

Refer to Appendix 1 for guidance on setting a price that is agreeable to both parties

GUIDE TO THIS SPECIMEN AGREEMENT

This specimen document provides that a Grower agrees with the Purchaser to grow the specified crop on lands available to the grower.

It has four main sections as follows:

- 1. In the first section the parties, the Grower and the Purchaser, set out their names, addresses and PPS Numbers. When an agreement is reached, parties sign in this section.*
- 2. The First Schedule contains sections to be completed by the Grower and Purchaser in which they fill in matters agreed between them such as commencement and duration of the agreement, fee agreed to be paid per tonne, and location of land where the crop (s) will be grown by the Grower.*
- 3. The Second Schedule contains two tables to be completed by the Grower and Purchaser. Table 6 is used to list and identify the crop (s) involved in this contract while Table 7 records the soil sample history for the lands used to grow the crop in this agreement.*
- 4. The General Terms and Conditions 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 Grower and the Purchaser are advised to carefully read, understand and amend this section as necessary in the light of the particular agreement being made between them with the assistance of their professional advisors before finalising and signing any agreement.*

ACKNOWLEDGEMENTS

This publication was produced by Thomas Curran Teagasc Farm Business Structures Specialist, in association with John McNamara Carbery Joint Programme Coordinator, Teagasc, Shay Phelan and Ciaran Collins, Teagasc Tillage Specialists, and Michael Hennessy Head of Crops Knowledge Transfer, Teagasc. The publication was drafted under the direction and guidance of, Diarmaid O’Cathain Solicitor and Mr. Ben Roche Independent Expert Consultant.

Thomas Curran, Farm Structures Specialist,
Teagasc. May 2018

DISCLAIMER

This suggested specimen agreement contains material which could be used if appropriate in relation to the growing of forage crops under contract. 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 contract forage cropping 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 solicitors and advice in relation in all relevant matters from accountants and all appropriate experts.

Contract Forage Cropping Agreement

Between

(Name) _____

(Address) _____

Herd Number: _____

PPSN Number _____

(who in this agreement is called the "Grower")

And

(Name) _____

(Address) _____

Herd Number: _____

PPSN Number _____

(who in this agreement is called the "Purchaser").

1. This agreement is made this _____ day of _____
20 ____.

2. Subject to and in accordance with all the terms and conditions set out in this agreement (which includes the three schedules hereto) , the Grower agrees with the Purchaser to grow on the lands identified in Table 3 the forage crop as set out in Table 6 and deliver the said crop when harvested to the storage area identified at Table 4 and the Purchaser agrees to purchase the said forage crop and pay for it in accordance with the payment schedule as set out in Table 1 of This Agreement and accept delivery of the said crop as hereby agreed.

3. The Grower agrees to deliver a minimum of _____ tonnes (Fresh Weight) to the Purchaser on the date of harvest as specified in Table 6 of the First Schedule.

SIGNED BY THE GROWER:

in the presence of :

SIGNED BY THE PURCHASER:

in the presence of :

FIRST SCHEDULE

1.1 Amount and manner of payment

- (a) The price payable under Clause 1.1 by the Purchaser to the Grower is €_____ per tonne (See appendix 1 for guidance on setting a price).
- (b) Unless otherwise agreed between the Grower and the Purchaser and written into This Agreement, payment shall be made by the Purchaser in three installments to the nominated account of the Grower identified in Table 2 on the following dates:

Table 1:			
	Payment Amount (€)	Payment Date:	[insert date]
First Installment	€	At Sowing	
Second Installment	€	Mid-Season	
Third Installment	€	Balancing Payment on delivery of crop	

1.2 Account Details

The account into which payments will be made by the Purchaser as agreed in clause 1.1.

Table 2:	
Account Number:	Sort Code:
Bank IBAN or other account No:	
Account Holder:	
At (Name of institution):	
(Address of Institution:	

1.3 Grower's Lands

Details of the lands (LPIS Numbers and Folio Numbers) on which the crop, that is the subject of this agreement, is to be grown by the Grower.

Table 3:	
Land Parcel Identification Number (LPIS)	FOLIOS
(i) [insert parcel number]	[insert folio]
(ii) [insert parcel number]	[insert folio]
(iii) [insert parcel number]	[insert folio]

1.4 Storage Area

The Grower and the Purchaser have agreed that the crop when harvested will immediately be delivered to the storage area provided by the Purchaser at the following location:

Table 4:	
Address:	
Eircode:	

1.5 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 **14.2** of the General Terms and Conditions of this agreement.

Table 5: Facilitator Details:	
Name:	
Address:	
Contact Phone:	Mobile:

SECOND SCHEDULE

2.1 Forage Crop

Table 6 outlines the details of the forage crop that is the subject of This Agreement.

Table 6: Crop (s) to be grown as the subject of this agreement

Crop Type	Variety Grown	Area Grown (Hectares)	Estimated Yield (t/ha)	Expected Harvest Date

2.2 Soil Sample Results

The Grower has provided the following soil sample history for the lands identified in Table 3 in the First Schedule to This Agreement.

Table 7: Soil Fertility Status of Growing lands

Field (LPIS)	Cropping History			Fertility status (for previous soil samples)			pH, Lime (t) applied & Year of application
	Year (20__)	Year (20__)	Year (20__)	Year sampled	P Index	K Index	

THIRD SCHEDULE

General Terms and Conditions

3. Definitions

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

“Forage Crop” shall herein refer to the Forage crop specified in Table 6 of the Second Schedule in this agreement.

“Dry Matter” shall herein refer to the the part of a crop or other feedstuff that remains when all its’ moisture content is removed.

“Fresh Weight” shall herein refer to the weight of the crop on the date of harvest. The fresh weight shall be established by weighing an agreed proportion of the crop.

“Grower” shall herein refer to the person contracted to grow the crop under this agreement.

“Grower’s Land” shall refer to the land described at Table 3 of the First Schedule in this agreement.

“LPIS” shall refer to the Land Parcel Identification Number as set out under the European Union Basic Payment Scheme.

“Purchaser” shall herein refer to the person identified in this document as the purchaser of the crop which is contracted to be grown under this agreement.

“Quality parameters” shall mean the scientific quality indicators for feedstuffs including tonnes per hectare, Dry Matter %, Starch % or % Sugar

4. Scope

- 4.1 This agreement represents the entire agreement between the parties. No other terms, promises, or representations are included unless specifically stated in this written agreement.
- 4.2 This agreement may be amended, extended or replaced by another agreement in writing only.
- 4.3 This is a contract for services and 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 a transfer of ownership or demise of property or to create the relationship of landlord and tenant in any property.
- 4.4 This agreement relates to the crop listed in Table 6 in the Second Schedule. Any agreed increase or reduction in the yield or area of crops grown will be balanced in the final balancing payment agreed to be paid as set out in this agreement.

5. General Terms

- 5.1. The Grower warrants that he/she owns/is entitled to exclusive possession of the lands identified at Table 3, for the duration of, and for all the purposes of, this agreement.
- 5.2. The Grower warrants that the soil sample history for the lands identified at Table 3 is as set out at in Table 7.
- 5.3. The Grower agrees to grow the forage crop in set out in Table 6 in accordance with Teagasc best practice guidelines.
- 5.4. The Grower warrants that he has declared to The Dept. of Agriculture, Food and the Marine that he will be growing the forage crop specified in this agreement on the lands herein specified in accordance with LPIS (Land Parcel Identification System) in the European Union Basic Payment Scheme.
- 5.5. This agreement shall conclude when the Purchaser has taken delivery of the forage crop

and the Grower has received full and final payment for the forage crop.

- 5.6. The Purchaser shall, in good time before the harvest date, have prepared as a storage area for the harvested crop the location described at Table 4 and shall facilitate the immediate storage of the said crop on the date of delivery of it.
- 5.7. The Grower will be responsible for transport and delivery of the crop when harvested from the lands identified in Table 3 to the storage area provided by the purchaser as set out at Table 4 at the cost of the Grower.
- 5.8. The Grower and the Purchaser agree that the unit of measurement for the forage crop as set out in Table 6 of the Second Schedule of This Agreement shall be in tonnes of fresh weight on the date of harvest.

6. *Payment Procedure*

- 6.1 The Purchaser shall pay to the Grower the fees set out in Table 1 in the First Schedule of this agreement at the time and in the manner set out there.
- 6.2 The Purchaser shall during the course hereof, in accordance with the terms hereof, pay for the crops in three installments as set out in This Agreement.
- 6.3 The Purchaser and the Grower agree that the third installment (balancing payment) shall be paid by the Purchaser on the date of delivery of the crop as set out in Table 1.
- 6.4 Late payments made by the Purchaser to the Grower shall carry an interest payment of 1½ % per month or part of a month until discharged in full.

7. *General Obligations*

- 7.1 The Grower shall during the course hereof, in accordance with the terms hereof, grow and manage the crop listed Table 6 in the Second Schedule and on the termination hereof or as required to hereunder hand over to the Purchaser the said crop in good condition in accordance with the terms of this agreement.
- 7.2 The Crop that is the subject of this agreement is grown by the Grower and throughout the currency of this agreement, without prejudice to the rights of the Purchaser in equity and hereunder, will remain the property of the Grower until all payments set out as part of this agreement have been received in full from the Purchaser.
- 7.3 To establish the yield of the crop and the quantity supplied on the date of harvest,

the Grower and the Purchaser agree to weigh a minimum number of two trailers or at least two trailers of each size where differences exist in the size of trailers used.

- 7.4 The Grower will record in writing and account to the Purchaser for the total number of trailers delivered and the size and date of delivery of each.
- 7.5 The weight of trailers shall be established at a certified weigh bridge that is agreeable to both parties in This Agreement or in default of agreement nominated by the Facilitator.
- 7.6 The Grower and Purchaser shall agree when the crop is ready for harvesting and in default of agreement it is hereby agreed that the Purchaser may hire a qualified agricultural advisor to assess when the crop is ready for harvest and the crop shall be harvested in accordance with the advice of that Adviser.
- 7.7 The resulting crop may be independently sampled to enable scientific analysis carried out to determine the quality parameters of the crop.

8. Grower: Undertakings and Obligations

The Grower shall:

- 8.1 Keep adequate written management and performance records as agreed between the parties to this agreement.
- 8.2 The Grower agrees to deliver on the agreed date of harvest the crop listed in Table 6 of the Second Schedule to the storage area to be prepared by Purchaser and identified at Table 4.

9. Purchaser: Undertakings and Obligations

The Purchaser shall:

- 9.1 Furnish payment in the manner and timing as set out in this agreement.
- 9.2 The Purchaser shall provide suitable facilities for the correct storage of the crop following harvesting and the Grower shall store the crop correctly in the said facilities. It shall be a matter for the Purchaser to provide covering if required and any material for same.

10. Crop Husbandry: Grower

- 10.1 The Grower shall ensure that best practice in crop husbandry and agronomy is adhered to at all times during the growing of the crop.
- 10.2 Unless otherwise agreed between the parties, the Grower shall provide and pay for all seed, fertiliser, pesticides and contracting required for the growing of the

crop in accordance with good crop husbandry.

10.3 The Grower shall take all normal usual and prudent precautions and necessary steps to ensure the safety and security of the crop and maintain fences, drains and take all other steps in accordance with good farming practice.

11. Identity of the Crop

11.1 The identity of the crop or crops to be grown and that constitute the subject of this agreement is set out in Table 6 of the Second Schedule in this agreement.

12. Confidentiality and Records

12.1 The parties to this agreement agree to maintain and respect confidentiality in respect of the content of it and of all and any knowledge of the affairs of the other party which may come to their notice in the course of the negotiation and implementation of this agreement.

12.2 Each party agrees to keep adequate written records of all materials, labour, services and any other matter supplied for or paid for in connection with the implementation of this agreement.

13. Crop Variety

13.1 The variety of the crop (s) shall be agreed between the Grower and the Purchaser and set out in Table 6 of the Second Schedule and it is agreed that the variety of the crop to be grown by the Grower shall be based on best practice and in accordance with the annual Department of Agriculture, Food and the Marine recommended variety lists.

14. Prevention and Resolution of Disputes

14.1 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.

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

14.3 The Facilitator shall be the person named in the First Schedule Clause 1.5 in this agreement or any third party agreed by the Parties in writing.

14.4 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.

14.5 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.

14.6 Any dispute, which is not resolved by referring it by agreement to the Facilitator as provided in this agreement, shall then be referred in the first instance to conciliation in accordance with the provisions specified at clause 15 of this agreement before being referred to arbitration.

14.7 All disputes, which arise between the parties, and which have not been resolved by the intervention of the facilitator or under Condition 14.2 hereof, or by the conciliation process set out below hereto may be referred to a single Arbitrator who shall have all the powers provided for an Arbitrator in the Arbitration Acts 1954 to 2010.

14.8 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.

14.9 The Arbitrator shall have full power to dissolve this contract forage cropping agreement should he think fit. Any decisions made by the Arbitrator shall be final and binding on all parties.

15. Conciliation Procedure as referred to in Condition 14.6 of the Agreement

15.1 This procedure shall apply to any conciliation requested under Condition 14.6 of the Agreement

15.2 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.

15.3 The parties shall agree on a conciliator, and failing agreement within 10 days of notice under Condition 15.1 hereto, either party may request the Facilitator referred to at Condition 14.2 of the Agreement to nominate a conciliator to conduct a conciliation procedure.

15.4 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.

15.5 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.

15.6 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.

15.7 The conciliator may, having informed the parties, consult independent third party experts.

15.8 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.

15.9 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 14.7 of this Agreement.

15.10 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.

15.11 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.

15.12 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.

16. Death of a Party

16.1 If the Grower dies during the period of this agreement, the Personal Representatives, heirs, executors and administrators of the Grower shall use their best endeavours to honour all the terms of this agreement to grow the crops and deliver to the Purchaser.

16.2 If the Purchaser dies during the period of this agreement, unless otherwise agreed in writing, the Personal Representatives, heirs, executors and administrators of the Purchaser shall use their best endeavours to honour all the terms of this agreement to purchase and take delivery of the crop that is the subject of this agreement.

17. Penalty

17.1 The Grower and Purchaser agree that if the quantity of the crop is not achieved, the Grower shall source a replacement crop in keeping with the crops as set out in Table 6 of the Second Schedule and supply the replacement crop promptly without delay to the Purchaser.

18. Miscellaneous

18.1 Each party's address for the service of notices shall be the address set out in this Agreement.

18.2 A Notice shall be deemed to have been served at the time of service if it was served personally, or if a notice is served by delivery to the address set out in this Agreement, it will be deemed to have been served 48 hours after it was delivered.

18.3 The parties to this agreement shall inform themselves fully and adhere faithfully to all road safety regulations (Section 13(10) of the Roads Act 1993) during and after the transportation of the crop.

18.4 If slurry and/or farmyard manure from the Purchaser's farm is to be spread on the land used to grow the crop that is the subject of this agreement, the Grower and the Purchaser have agreed independently of this agreement on how this is to be done and how the cost is to be borne (see Appendix 2).

- 18.5 The Grower and the Purchaser shall take all steps necessary to facilitate the completion of all appropriate documentation required by the Nitrates Regulations (SI 605 of 2017 as amended) and shall complete all documentation required of them.
- 18.6 The Grower shall maintain all standard farming public liability insurance in accordance with good farming practice.
- 18.7 For the avoidance of doubt, it is agreed that the Grower will retain any EU Basic Payment Scheme (BPS) entitlements on the lands used to grow the forage crop that is the subject of This Agreement.
- 18.8 The Grower shall retain all documentation and records in relation to the growing of the crop as required under and in accordance with cross compliance regulations (EU Regulation No. 809/2014 as amended).

Appendix 1: Estimated Cost €per tonne of maize & beet as provided by Teagasc.

Maize*

The table assumes good quality Maize Silage (DM 27% + & Starch 28-32%)

		Costs of production/acre			
		€ 900	€ 1,000	€ 1,100	€ 1,200
		€/tonne			
Yield (tonnes/acre) Fresh weight	18	50	56	61	67
	20	45	50	55	60
	22	41	45	50	55
	24	38	42	46	50
	26	35	38	42	46

* The costs in this table are based on the costs of production plus a margin based on a standard quality of maize. The table helps the tillage farmer get an idea of the potential returns per acre and the livestock farmer can also get an idea of the cost per ton of the forage. As the crop yield per acre (tonnes) increases the costs of production per tonne decrease as shown in this table.

Beet **

	DM % in the Beet				
	17%	19%	20%	21%	23%
Base price per ton (€)	Adjusted Costs €/t				
34	29	32	34	36	39
35	30	33	35	37	40
36	31	34	36	38	41
37	32	35	37	39	42

** This beet table is derived from a relative value of €35/tonne at 20% Dry Matter or €175 t/DM. The agreement can change the relative value of beet to reflect their needs. As the dry matter in the beet increases (variety dependent), the costs of production per tonne decrease. An allowance may be necessary for washing and delivery of beet in the final cost.

Appendix 2: Details of Organic to be Manures spread on the lands used to grow the forage crop as set out in Table 6 of the Second Schedule.

Table 8:

Type of Organic Manure	Quantity (M ³)/Tonnes	Spreading Date	Payee for Transport & Spreading

NOTE: If a separate agreement is reached in relation to spreading slurry/organic manure from the Purchaser's lands on the land used to grow the crop in this agreement. Details of that separate agreement may be recorded here for convenience.