
- Specimen –

FARM PARTNERSHIP AGREEMENT

Material and information in relation to Registered Farm Partnerships (RFP's) may be obtained from <http://www.teagasc.ie/collaborativearrangements/> and <http://www.agriculture.gov.ie/farmingsectors/dairy/> . This specimen document has been compiled to assist farmers to make inquiries and to discuss proposals and alternatives with their Solicitors, Financial Advisors, Accountants, and other advisors. It is not intended for any other purpose. It is essential that each prospective partner prior to entering any agreement retain a Solicitor and Accountant. No responsibility or liability whatsoever can be accepted by those who compiled this document, or by the Law Society, for any loss suffered by any person as a consequence of relying on any matter contained in it or for any matter whatsoever. The draft legal document is intended as a specimen only. It should not be adopted even in part without taking specific legal advice from Solicitors and advice in relation to all relevant matters from Accountants and/or appropriate experts. Persons proposing to form a Partnership should request their own Advisors to draft a document adapted to the needs and circumstances of the persons involved, and which complies also with the terms of all relevant legislation.)

- SPECIMEN ONLY -

This Partnership agreement dated the _____ day of _____, 201_____

is made between _____

of _____

_____, PPS No _____.

(hereinafter called the "First Partner"),

- AND -

of _____

_____, PPS No _____.

(hereinafter called the "Second Partner")

PREAMBLE

A. The First Partner and the Second Partner have agreed to form a Partnership for the purpose of carrying together the business of farming with the assets transferred to or made available for use by the Partnership as specified in detail in This Agreement and in general all necessary and incidental activity connected with this purpose.

B. The First Partner intends to make available for use by the Partnership the lands described in the First Schedule to this Agreement

C. The Second Partner intends to make available for use by the Partnership the lands described in the First Schedule to this Agreement

D. It is the intention of the Partners to bring into being a Registered Farm Partnership within the terms prescribed by the Registration of Farm Partnerships Regulations SI 247 of 2015 as extended or re-enacted from time to time governing the requirements for farmers farming in Partnership.

E. The Herd Number allocated to the Partnership is _____

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1(a) Definitions of words and phrases contained in The Regulations and Detailed Rules shall apply to and be deemed to be incorporated in This Agreement.

(b) Where any document, matter or thing is described or referred to as "agreed" or "as agreed" or otherwise so as to indicate agreement between certain parties, that agreement shall be deemed to be between the Parties hereto.

(c) In This Agreement the following terms shall have the following meanings save where the context otherwise requires:

Agreed Value

The value ascribed to the assets in the Third Schedule for the purposes of This Agreement.

| | |
|---------------------------------|---|
| This Agreement | This Partnership agreement including the Schedules and the On Farm Agreement as the same may be amended from time to time. |
| The Business of the Partnership | The Business of The Partnership intended to be carried on by the Partners and as set out in Clause 5 of This Agreement. |
| Cash Contribution | The Cash Contribution of each Partner to the Partnership specified under his own name in the Third Schedule. |
| Commencement Date | The date on which This Agreement takes effect, namely the date specified at paragraph 7.1 hereof. |
| Disclosure Letter | The Disclosure Letters (and their annexes) dated the same date as This Agreement provided by each Partner to the other Partner(s) stating any facts or circumstances which if not disclosed would result in that Partner being in breach of The Warranties. |
| Family Home | The meaning of that term in the Family Home Protection Act, 1976 (as amended). |
| Net Book Value | The net value of any particular asset in the accounts of the Partnership after depreciation |
| On-Farm Agreement | The Agreement between the parties regulating the day-to-day affairs of the Partnership and signed by them on the same date as This Agreement referred to in Clause 4 below. |
| Partner and Partners | The parties hereto (to include any person acceding or otherwise becoming a Partner to the Partnership under the provisions hereof). |
| The Partnership | The Partnership carried on by the Partners under This Agreement. |
| The Regulations | Registration of Farm Partnerships Regulations SI 247 of 2015 and Detailed Rules as amended, extended or re-enacted from time to time. |
| Basic Payment Scheme | Shall include payment entitlements based on area under basic payment scheme |
| Tax Written Down Value | The cost of an item in the Accounts of the owner thereof less the amounts claimed or claimable up to the date of creation of The Partnership by way of capital allowances in respect of that item. |
| Teagasc | The Agriculture and Food Development Authority established by The Agriculture (Research Training & Advice) Act 1988 or such other statutory body having similar function, as may be established from time to time. |
| The Warranties | The warranties specified in the Fifth Schedule. |

- 1.2. Any reference to any party to This Agreement shall include his or her successors in title and personal representatives, by and against whom This Agreement shall be enforceable as if they had been originally named as parties.
- 1.3. Words importing the singular number shall include the plural and *vice versa* and words importing the masculine gender shall include the feminine and neuter and *vice versa*.
- 1.4. Words such as “hereunder” and “hereto”, “hereof”, and “herein” and such words commencing with “here” shall unless the context clearly indicates to the contrary refer to the whole of This Agreement and not to any particular section or clause.
- 1.5. Each covenant or agreement given or made by a party shall be deemed to have been given or made by him with the other parties jointly and severally and with each of them separately.
- 1.6. The section and clause headings and notes are inserted for convenience only and shall not be considered a part of or affect the construction or interpretation of This Agreement.
- 1.7. Save where otherwise expressly stated references in This Agreement to parties or schedules are to the parties and schedules hereto.

2. WARRANTIES AND INDEMNITIES

- 2.1 In consideration of and as an inducement to the other Partner(s) entering into This Agreement each Partner warrants to the other Partner(s) The Warranties set out in the Fifth Schedule hereto and represents to those Partners, that The Warranties are true and accurate in all respects, save as fairly and accurately disclosed in that Partner's Disclosure Letter. Each of The Warranties is separate and independent and without prejudice to any other Warranty.
- 2.2 Each Partner agrees to indemnify and keep indemnified the other Partner(s) in respect of his personal liabilities whatsoever arising whether from any action or inaction by the indemnifying Partner prior to the commencement hereof, and any loss or damage suffered by any of them as a result of any breach of Clause 2.1 by that Partner or of any other undertakings, covenants conditions or terms hereof whatsoever.
- 2.3 The rights and remedies of the innocent Partner in respect of any breach of The Warranties shall not be affected or extinguished by the execution or commencement of This Agreement, by any investigation made by him or on his behalf into the affairs of the Partnership, by its rescinding or failing to rescind This Agreement, or failing to exercise or delaying the exercise of any right or remedy, or by any other event or matter, except a specific and duly authorised written waiver or release, and no single or partial exercise of any right or remedy shall preclude any further or other exercise.
- 2.4 The Partners shall be responsible and liable to any creditor of the Partnership in respect of any partnership obligation in the proportions in which they are entitled to share profits and in any case where a Partner is liable for a Partnership obligation, then amongst the Partners themselves each Partner shall be entitled to an indemnity from the other Partner in so far as he is obligated to discharge and pay to the partnership creditor sums or amounts in excess of the said proportion of such debt. Notwithstanding the Partnership Act, 1890, s.18 this indemnity amongst the Partners as between themselves will not be revoked by any change in the constitution of the Partnership.

3. FORMATION AND REGISTRATION

- 3.1 The parties agree to use their Milk Production Rights, Entitlements under the Basic Payment Scheme and their Holdings and other agricultural assets (excluding those described in the Seventh Schedule hereto) and otherwise contribute resources in accordance herewith in order to establish a Registered Farm Partnership on the terms and conditions set out in This Agreement.
- 3.2.1 The Lands, Resources, Activities and other matters specified in the Seventh Schedule (Part I) hereto shall be excluded from and not form part of the Partnership capital, lands, resources, assets, business, activities or enterprise in any way.
- 3.2.2 The Family Home(s) of the Partners as set out in Parts II and III of the Seventh Schedule hereto are excluded from this agreement.
- 3.3 This Agreement shall not come into effect until the Registered Farm Partnership shall have been registered by the Department of Agriculture, Food and the Marine, Partnership Registration Office.

- 3.4 The Partnership shall on a five yearly basis apply to the Department of Agriculture, Food and the Marine Partnership Registration Office for a Certificate of Registration, effective from each anniversary of the Commencement Date.
- 3.5 Any intended alteration to This Agreement shall be notified to the Department of Agriculture, Food and the Marine Partnership Registration Office as soon as possible, but in any event within 21 days of such a change.
- 3.6 The Partners agree that no liability shall attach to the Department of Agriculture, Food and the Marine or Teagasc arising out of any provision contained in This Agreement.
- 3.7 The Partners hereby covenant with one another to take all steps necessary to comply at all times with The Regulations.
- 3.8 Each Partner agrees to take all steps necessary to facilitate inspection by the Department of Agriculture, Food and the Marine or any other Statutory Body for the purposes of the exercise of their statutory functions and hereby covenants to comply with any request for information or requirement by the Department of Agriculture, Food and the Marine Partnership Registration Office or by such Statutory Body in connection with the same.
- 3.9 All necessary steps shall be taken by each Partner to comply with Planning Permission and any other regulation or statutory provision, the breach of which may give rise to civil or criminal liabilities.
- 3.10 All necessary steps shall be taken by the Partners to register The Partnership for tax purposes as soon as practicable.

4. ON-FARM AGREEMENT

- 4.1 As a supplement to This Agreement the parties have entered into an agreement called the “On-Farm Agreement” in which day to day work and management details are regulated as between the parties. In the case of any contradiction between the On-Farm Agreement and this Agreement, the provisions of this Partnership Agreement shall prevail

5. BUSINESS OF THE PARTNERSHIP

- 5.1 Subject to the terms of The Regulations and the provisions of This Agreement the Partnership shall carry on the business of farming using the assets and resources transferred to or made available for use by the Partnership in accordance with This Agreement.
- 5.2 The place of business of the Partnership shall be the lands herein referred to as being made available for use by the Partnership as set out in the First Schedule to This Agreement.

6. NAME AND OFFICE

- 6.1. The Partnership business shall be carried on under the name of: _____

_____ and that name together with the names of the Partners shall appear on all deeds, bills, letters, receipts, documentation and all documents whatsoever issued or used by the Partnership.

- 6.2 Where the Partnership name is not the personal names of the partners, the name of the Partnership shall be registered under the Registration of Business Names Act 1963.
- 6.3 The Partnership shall have an office which shall be situate at: _____
or at such place as the Partners may decide from time to time and notify in writing to the Department of Agriculture, Food and the Marine Partnership Registration Office and all correspondence relating to the Partnership shall be addressed to and from that address.
- 6.4 All records and documents relating in any way to the Partnership shall normally be kept at the office.

7. DURATION

- 7.1 The Partnership shall commence on [] and shall continue for a minimum term of [] years. It shall continue thereafter until dissolved under the terms of This Agreement.

8. FARMS USED BY PARTNERSHIP

- 8.1. The business shall be carried on on the lands described in the First Schedule hereto.

9. LICENCE

- 9.1 The first Partner hereby grants a licence on the terms set out in the Second Schedule hereto to the second Partner to farm with him on the lands set out in Part I of the First Schedule to This Agreement.
- 9.2 The second Partner hereby grants a licence on the terms set out in the Second Schedule thereto to the first Partner to farm with him on the lands set out in Part II of the First Schedule to This Agreement.
- 9.3 Any licence hereby granted shall be limited to activities necessitated by the proper running and management of the Partnership.

10. PARTNERSHIP CAPITAL

- 10.1 The assets listed under the names of each of the parties in the Third Schedule shall be transferred by the parties to the Partnership at the Agreed Value on the commencement hereof and shall form the initial capital contribution of each of the Partners to the Partnership
- 10.1.1 Irrespective of the amount of the Agreed Value of assets transferred to The Partnership the Parties agree that it is their intention, where permissible under Tax Law, to elect that the assets shall be deemed to have been transferred at the Tax Written Down Value thereof in the Accounts of the Transferor and the Parties agree to complete and execute all or any further documents and do all things necessary and provide all required information, to inform the relevant Inspector of Taxes of their joint election, or that may be otherwise necessary to ensure that no balancing charges shall be levied on the Transferor as a result of the transfer of the assets pursuant to This Agreement.
- 10.1.2 In any case where the agreed value of livestock transferred to the Partnership exceeds the value of that livestock in the accounts of the transferring Partner on the Commencement

Date then to the extent permissible by the relevant guidelines published by the Revenue Commissioners, and unless otherwise agreed, the value of that livestock in the accounts of the Partnership shall be adjusted in accordance with the basis specified by the Revenue Commissioners in those guidelines.

10.2 The capital of the Partnership may be increased or decreased by agreement in writing of all the Partners.

10.3 Each of the Partners shall:

10.3.1 On or before the date hereof pay into the Partnership bank account the Cash Contribution set out in the Third Schedule hereto;

10.3.2 Transfer to the Partnership the non-cash Assets specified in the Third Schedule hereto on the terms and conditions specified herein, which said assets shall belong to the Partnership;

10.3.3 Each Partner hereby confirms that he has obtained independent professional advice as to the value of any asset transferred by him to or made available for use by the Partnership.

11. RESOURCES

11.1 The resources set out in the Fourth Schedule hereto shall be made available for use by The Partnership subject to the special terms (if any) specified therein

11.2 It is hereby expressly agreed that the lands, Milk Production Rights, Entitlements under the Basic Payment Scheme and other quota rights, hereunder made available for use by the Partnership shall not be or form part of the Partnership Property or Partnership Capital but that they shall remain the property of respective Partners insofar as the relevant provisions allow.

11.3 No value shall be attributed to the goodwill of The Business of The Partnership.

11.4 In the event of improvement or enhancement of any property of an individual Partner used by or made available for use by the Partnership, the following shall apply:

In the event that an improvement is paid for only by the Partner making the relevant asset available that Partner shall be entitled to claim capital allowances thereon personally and profit sharing arrangements shall be adjusted as agreed. In the event that the improvement is paid for by the Partnership on dissolution it shall be dealt with in accordance with Clause 25.1.2 – 25.1.5 of The Agreement.

11.5 Any property (apart from land and/or production rights which are provided for elsewhere herein) acquired with Partnership assets or for the benefit of the Partnership standing in the name of any particular Partner, shall be held on trust by that Partner for the Partners in their respective shares save where the contrary is explicitly provided in This Agreement.

11.6 Should a Partner acquire or have acquired other lands without the agreement of the other Partner, this matter may be referred by either to the Facilitator under Clause 26 hereof.

12. ACCOUNTS AND ADMINISTRATION

12.1 All records required by law, levies, grants, schemes whatsoever shall be kept and maintained at all times and in particular as specified in the On-Farm Agreement.

- 12.2 Proper accounts shall be kept at all times. At the end of each accounting year Trading Profit/Loss Account and Balance Sheet for The Partnership and including Capital Accounts and Current Accounts for each Partner shall be prepared.
- 12.3 Each Partner shall ensure that all invoices, receipts, vouchers, documentation, records of any nature or description relevant to the business carried on by the Partnership shall be carefully kept and preserved and notified to the other and delivered as soon as is practicable to the party designated as responsible for such matters in the On-Farm Agreement.
- 12.4 The Partners hereby undertake with one another to give to the other within ten days of the receipt thereof a true copy of any notification received from the State, the European Union, or any third party likely to affect in any way the value or payment or future value or future payment of any Grant/Subsidy which might in any way affect the functioning of the Partnership.
- 12.5 These books and accounts and notices shall normally be kept at the Partnership office
- 12.6 All Partnership funds shall be lodged to the Partnership current Bank Account (as soon as practicable).
- 12.7 All withdrawals from the Partnership Bank Accounts shall be by an agreed method between the parties and shall be authorised by:
-
- 12.8 There shall be an annual review meeting every year and this shall be held within three months of the end of the accounting period.
- 12.9 Full financial accounts shall be presented at the annual review meeting and on approval signed by all Partners.
- 12.10 If a Partner has a difficulty with an aspect of the accounts, the Facilitator referred to at Clause 26 shall be invited to meet with each of the Partners within 14 days with a view to facilitating a speedy resolution. If no resolution is achieved within a further fourteen days the matter shall be referred to conciliation and if necessary to an Arbitrator as per Clause 26 hereof.
- 12.11 Ordinary management meetings shall be held as set out in the On-Farm Agreement and as necessary for the smooth management of the business

13. INSURANCE

- 13.1 The Partnership shall at all times maintain the policies of insurance specified in the On-Farm Agreement

14. DIVISION OF PROFITS AND LOSSES

- 14.1 Profits shall be divided between the Partners on the basis of the agreement set out in the Sixth Schedule.
- 14.2 All income support payments received in respect of E.U. or Department of Agriculture, Food and the Marine support schemes, subsidies or grants and including GLAS, Area of Natural Constraint Payments, Basic Payments, shall form part of the Partnership income

unless any such payment is in respect of an exempted enterprise as specified in the regulations.

15. OUTGOINGS

- 15.1 All liabilities of the Partnership shall be discharged on a timely basis.
- 15.2 The Various liabilities shall be discharged from Partnership funds by the Partner nominated to do so in the On-Farm Agreement.

16. TAX

- 16.1 Appropriate tax returns shall be filed with the Revenue Commissioners as required by law. The precedent Partner shall be as designated in the On-Farm Agreement and the Partnership shall indemnify the precedent Partner in respect of any matters arising under the Tax Acts
- 16.2 Each Partner agrees to discharge punctually and promptly all personal liabilities due to the Revenue Commissioners howsoever arising for which he shall be liable on the due date.
- 16.3 Before the due date for the submission of tax returns, the Partners shall furnish all necessary books of account to the Partnership Accountants to enable due tax to be calculated.
- 16.4 In respect of Income Tax, prior to the due date for the payment thereof, the Partners, having received the advice of the Partnership Accountants, shall ensure that the amount of Income Tax which they estimate will be payable by each Partner shall be retained out of that Partner's share of the profits as reserves and paid and discharged in good time to the Revenue Commissioners on or before the due date.
- 16.5 In the event of failure to agree on the accounts or to ensure that tax returns are submitted by the due date, a Partner shall be entitled to submit a return and extracts of accounts to the Revenue Commissioners in accordance with his best estimation and make an appropriate payment to the Revenue Commissioners on foot of the same in respect of that Partners own tax liabilities.
- 16.6 Each Partner shall indemnify the other for any tax paid by the Partnership in respect of the liability of that Partner.

17. CASH WITHDRAWALS

- 17.1 Withdrawals of money from the Partnership will be at the intervals and in the amounts specified in the On-Farm Agreement.
- 17.2 Any allocated but undrawn share of profits by an individual Partner shall be deemed to be a debt due from the Partnership to that Partner.
- 17.3 Overpayments during the course of the year on account of a Partner's profit share shall be dealt with as specified in the On-Farm Agreement.
- 17.4 Capital contributions shall be withdrawn upon dissolution of the Partnership.

18. OBLIGATIONS OF THE PARTNERS TO THE PARTNERSHIP

- 18.1 Each Partner shall at all times:

- 18.1.1. show the utmost good faith to the other Partners;
- 18.1.2. promote the Business of the Partnership;
- 18.1.3 conduct himself in a proper, reasonable and responsible manner;
- 18.1.4 comply in all respects with the law and with any environmental, planning or other regulations as may apply in respect of the Business of the Partnership;
- 18.1.5 duly and punctually pay and discharge his separate private debts and liabilities and keep the Assets and the other Partners and each of their estates and effects indemnified against same and against all actions, proceedings, costs and demands in respect thereof;

19. PARTICIPATION IN THE WORK

- 19.1 The work and management shall be shared by the Partners in the spirit of goodwill for the common good and both Partners shall have an equal voice in all affairs of the Partnership and neither Partner shall be subservient to the other Partner.
- 19.2 Each Partner shall devote his whole time and attention to The Business of The Partnership.

- OR -

The [] Partner shall devote his whole time and attention to the Business of the Partnership

The [] Partner shall engage in The Business of The Partnership on a part time basis

- 19.3 Subject to the above the Partners shall participate in and carry on the Business of the Partnership in accordance with the On-Farm Agreement.
- 19.4 Each Partner shall be entitled to holidays as set out in the On-Farm Agreement.

20. COMPETITION WITH THE PARTNERSHIP

- 20.1. Each Partner agrees that he shall not divulge to any person any secrets, confidential knowledge, or information concerning the business, finance or affairs of the Partnership or of any other Partner and shall not solicit, interfere with or endeavour to entice away any employee or consultant of the Partnership or of the other Partners.
- 20.2. Without prejudice to the provisions of The Regulations, Section 30 of the Partnership Act 1890 is hereby excluded.

21. RESTRICTIONS ON PARTNERS

- 21.1 Without the written consent of the other Partner, neither Partner shall:
 - a) contract to sell, lease, licence, dispose of, pledge, mortgage or charge, or deal in any adverse way with any of the assets or resources owned by the Partnership or made available to the Partnership including the lands;
 - b) submit a Partnership claim or liability to arbitration;
 - c) consent to a judgement against the Partnership or any Partner;
 - d) admit a new member;
 - e) act as a guarantor for any obligation in the Partnership name;

- f) borrow or lend money on behalf of the Partnership;
- g) compromise any claim due to the Partnership;
- h) hire or dismiss any employee; trainee or apprentice
- i) incur expenses for the Partnership in the excess of the sum specified in the On-Farm Agreement.
- j) enter into any contract or agreement which may render the Partners at risk of the loss of or liable for any sum or aggregate sum greater than []
- k) write-off, cancel or forgive the whole or any part of any debt or sum due to the Partnership in excess of [] without the prior written consent of the other Partner.
- l) exceed the agreed Off-Farm income
- m) make an assignment of property for the benefit of creditors;

22. INCAPACITY OF PARTNER

- 22.1 If a Partner is prevented from carrying out his or her duties as a Partner because of illness or infirmity for more than six months then the other Partner may by giving three months notice terminate the Partnership
- 22.2 Incapacity for any lesser period shall be dealt with in accordance with the On-Farm Agreement

23. DEATH OF A PARTNER

- 23.1 On the death of a Partner the remaining Partner(s) shall forthwith notify the Partnership Registration Office, Department of Agriculture, Food and the Marine.

24. DISSOLUTION

- 24.1. A Partner can give notice to the other in writing of dissolution of the Partnership and the Partnership shall be dissolved on the expiry of six months from the date of service of such notice provided that a minimum term of [] years from the Commencement Date shall have expired.
- 24.2. The Partnership shall be dissolved:
 - 24.2.1 if any Partner shall mortgage assign or transfer his or her share in the Partnership or any part thereof or allow it to be charged for his or her separate debt under the Partnership Act 1890 without the consent of the other Partner
 - 24.2.2 if any Partner shall become bankrupt or insolvent or compound or make any arrangement with creditors or have a petition for a bankruptcy order against him or her presented to the court, or insolvency proceedings commenced
 - 24.2.3 if any Partner shall be convicted of any offence involving fraud or dishonesty

- 24.2.4 if the Partnership Registration Office, Department of Agriculture, Food and the Marine, remove it for whatever reason from the Register of Farm Partnerships.
- 24.2.5 if the Partnership Registration Office, Department of Agriculture, Food and the Marine, refuse to issue a Certificate of Registration;
- 24.3 Subject to (if practicable), the Partner concerned having been given advance notice in writing and a reasonable opportunity to explain his conduct, the Partnership shall be dissolved where a Partner:
- (a) behaves in a manner likely to have a detrimental effect on the Partnership Business;
 - (b) is guilty of any conduct, which would be a ground for dissolution of the Partnership by the Court;
 - (c) is guilty of any flagrantly immoral behaviour or of any flagrant grave deliberate or persistent breach or breaches of the ethics or etiquette of the farming profession or of any other conduct calculated to or tending to injure the reputation of the Partnership or likely to have a serious or adverse effect upon the Business of the Partnership; or
 - (d) commits any substantial or consistent breach of This Agreement.
 - (e) act in any manner inconsistent with the utmost good faith observable between Partners.
 - (f) absent himself or herself from the Partnership without proper cause for more than 4 weeks (consecutive or otherwise) in any period of 12 months

25. DEALING WITH AND DISTRIBUTION OF ASSETS WHEN THE PARTNERSHIP IS DISSOLVED

- 25.1.1 On the termination hereof the entitlement of the Partnership to use assets made available to it by any of the Partners shall terminate, including for avoidance of doubt the Licences to use the land of the individual Partners;
- 25.1.2 For avoidance of doubt it is expressly agreed that the making of or paying for the improvement of an asset made available for use by the Partnership shall not operate to confer on or vest in the Partnership any beneficial interest in the relevant asset.
- 25.1.3. Where the Partners have agreed a depreciation schedule of other specific terms for dealing with an improvement made or paid for by the Partnership on dissolution, the same shall be recorded in writing and annexed to the On-Farm Agreement and the owner of the asset shall be liable to pay to the Partnership an amount equal to the net value of the asset in accordance with the agreed depreciation schedule or otherwise in accordance with the terms agreed.
- 25.1.4 In default of the Partners having agreed a depreciation schedule and/or specific terms for dealing with an improvement made or paid for by the Partnership then in any case where the improvement materially enhances the value of the asset at the date of dissolution of the Partnership on the termination hereof the owner of the asset shall compensate the Partnership for that improvement and shall be liable to pay to the Partnership an amount equal to the Net Book Value of the improvement in the accounts of the Partnership made up to the date of dissolution.
- 25.2 On dissolution of the Partnership the following shall occur:
- (a) The assets of the Partnership shall be valued by agreement;
 - (b) All Partnership debts and liabilities shall be paid and discharged (any deficiency being contributed rateably by the Partners according to the profit sharing ratio specified in paragraph a(2) of the Sixth Schedule)

- (c) Distribution of undrawn income shall take place
 - (d) Payment shall be made to Partners who have made loans or advances to the Partnership of the amount due together with any interest payable.
 - (e) Capital shall be repaid
 - (f) Any surplus or deficit shall be shared according to profit sharing ratio as set out in paragraph a(2) of the Sixth Schedule below.
- 25.3 On the termination of the Partnership, livestock/farm machinery/fodder or other asset may be accepted by the Partners in lieu of payment or part payment.
- 25.4 If agreement cannot be reached between the Partners as to the value and allocation of specific assets then those specific assets shall be sold at public auction as soon as convenient and the proceeds less costs of sale distributed in accordance with Clause 25.2
- 25.5 Upon the dissolution of This Agreement, all parties or their heirs, successors, administrators or assigns shall immediately take all steps as are necessary under law to ensure that the Milk Production Rights, Entitlements under DAFM/EU schemes such as The Basic Payment Scheme, GLAS and ANC and land and buildings shall revert to the owner thereof for their own use and benefit as soon as possible.
- 25.6 The Partners agree that on the dissolution or termination of the Partnership each will take all necessary steps to notify all statutory agencies and authorities and other third parties with whom the Partnership has been dealing of the dissolution thereof.
- 25.7 Each Partner hereby appoints the other Partner Attorney for the purposes only of executing, signing and putting into effect any and all notices, documents, deeds, requiring to be signed, executed or carried into effect for the purposes of the dissolution hereof in accordance with the terms hereof only,
- 25.8 Any dispute in relation to valuation of any matter hereunder or any dispute as to division of assets shall be dealt with in accordance with clause 26.

26. PREVENTION AND RESOLUTION OF DISPUTES

- 26.1 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 Clause.
- 26.1.1 Any such dispute shall in the first instance be referred to a Facilitator before it may be referred to Arbitration hereunder.
- 26.2 The facilitator shall be the person named as such in the On-Farm agreement or any third party agreed by the Partners. The Facilitator shall have the power to nominate at his/her discretion, having consulted with the Partners, another person with particularly relevant skills to act in their stead as Facilitator. The Facilitator shall also have the power to consult such a person while acting as Facilitator.
- 26.3 The opinion or recommendation of the facilitator shall not be legally binding.

- 26.4 Any dispute, which is not resolved by referring it by agreement to a Facilitator under clause 26 hereof, shall be referred in the first instance to conciliation in accordance with the provisions specified in the Eighth Schedule hereto before being referred to arbitration.
- 26.5 All disputes, which arise between the parties, and which have not been resolved by the intervention of the facilitator or under Clause 26.4 hereof, may be referred by either of the Partners or both to a single Arbitrator who shall have all the powers provided for an Arbitrator in the Arbitration Acts 1954 to 2010.
- 26.6 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.
- 26.7 The Arbitrator shall have full power to dissolve the Partnership should he think fit.
- 26.8 Any decisions made by the Arbitrator shall be final and binding on all parties.

27. MISCELLANEOUS

- 27.1 The rights of any party shall not be prejudiced or restricted by any indulgence or forbearance extended to the other party and no waiver by any party in respect of any breach shall operate as a waiver in respect of any subsequent breach.
- 27.2 This Agreement shall not be varied or amended except in writing, such amendment or document to be signed by both parties, and such amendment shall be notified to the Partnership Registration Office Department of Agriculture, Food and the Marine,.
- 27.3 This Agreement supersedes any previous agreement between the parties in relation to the subject matter hereof and may be executed in one or more counterparts and all such counterparts each of which constitutes an original taken together shall for all purposes constitute one and the same agreement.
- 27.4. If at any time any of the provisions of This Agreement is or becomes or is held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be affected but the Partners shall negotiate in good faith in order to agree the terms of a mutually satisfactory substitution provision.
- 27.5. Time shall be of the essence in respect of any date or period mentioned in This Agreement.
- 27.6. This Agreement shall be governed by and construed in accordance with the laws of Ireland and the parties submit to the exclusive jurisdiction of the Irish Courts.
- 27.7. Each Partner shall pay the legal costs and other expenses incurred by him in the preparation and execution of This Agreement.
- 27.8 Each party's address for the service of notice shall be the address set out in This Agreement.
- 27.9 A notice shall be deemed to have been served at the time of service if it was served personally, or if it was served by delivery to the address of the partner set out in This Agreement, 48 hours after it was delivered.

FIRST SCHEDULE
(Schedule of Lands to be used under Licence by the Partnership)

PART I

1.1 Freehold:

Lands of First Partner made available under Licence

1.2 Leasehold/Conacre/Agistment:

Land already held by First Partner from Third Party under lease or conacre

2.1 The Partners agree to reimburse to the First Partner the money expended by him/her in discharge of the rent reserved by the lease or payable on conacre as a Partnership expense

2.2 The First Partner hereby warrants that any necessary consent has been obtained from _____ the third parties and any necessary notice was served on them.

PART II

1.1 Freehold:

Lands of Second Partner made available under Licence

1.2 Leasehold/Conacre/Agistment:

Land already held by Second Partner from Third Party under lease or conacre

2.1 The Partners agree to reimburse to the Second Partner the money expended by him/her in discharge of the rent reserved by the lease or payable on conacre as a Partnership expense

2.2 The Second Partner hereby warrants that any necessary consent has been obtained from _____ the third parties and any necessary notice was served on them.

PART III

1. NEW LEASES OR CONACRE LETTINGS TO PARTNERSHIP FROM THIRD PARTIES

1.1. The following lands shall be taken on lease by the Partnership under lease or conacre/agistment from (Third party):

Details of lease: _____

SECOND SCHEDULE
(Licence)

1. The Licence hereby granted to the Licensee shall be non-exclusive to the extent that the Licensor, his servants, and agents, and family members, shall be entitled to carry out fully all the provisions of the Partnership Agreement and it is hereby agreed that any Licence hereby granted is to that extent amended.
2. The Licence is personal to the Licensee and is not intended to create a tenancy or other demise nor any interest in the premises.
3. It is hereby agreed that this Licence is to be exercised in conjunction with and in furtherance of the Partnership Agreement to which it is annexed
4. The Licensee shall not be entitled to assign sublet or part with or share the possession of the premises or any part thereof or permit any other person to occupy the same as a licensee without first obtaining the consent in writing of the Licensor.
5. The Licensee shall not make any structural alterations to the premises or make any alterations whatsoever in the internal arrangements or external appearance of any buildings on the premises except with the consent of the Licensor.
6. The Licensee shall maintain and keep the premises and all buildings and structures thereon and the fences, ditches, hedges, timber and other trees, drains, pipes, roads and paths on the premises or serving same in good order, repair and condition, from the commencement of the license until it terminates and then leave it in that condition.
7. The Licensee shall notify the Licensor forthwith of any damage that may be occasioned to any property of the Licensor.
8. The Licensee shall not use or occupy the premises except for the purposes of the Partnership.
9. The Licensee shall not create or allow to be created any nuisance on the premises nor do or allow to be done anything which may render the Licensor liable to any Third Party or render the Licensor liable for any more than the present rate of premium for insurance.
10. The Licensee shall indemnify the Licensor against all claims arising from the Licensee's stock straying or trespassing onto property other than the premises or arising howsoever as a result of damage by the Licensee's stock to adjoining property owners or other persons at any time during the period of the license.
11. The Licensee agrees that the Licensor reserves the right for himself his servants or agents to enter upon the premises with such animals, vehicles and appliances as may be necessary for the discharge of any business or businesses of the Licensor at all times during the period of this license, the Licensor making good damage thereby caused.
12. At the termination of the license the Licensee shall vacate the premises yielding up quiet possession to the Owner and shall have no further claims on the property.

THIRD SCHEDULE

PART I

PARTNERSHIP CAPITAL

The First Partner hereby agrees to transfer the following assets to the Partnership and they shall form the First Partner's contributions to the Partnership capital.

| <u>ASSET</u> | <u>DETAILS (TYPE, NUMBER, QUANTITY ETC)</u> |
|---------------------------|---|
| Cash Contribution: | _____ (Specific Cash Contribution) |
| Livestock: | _____ (List Livestock or as per Livestock Appendix) |
| Machinery: | _____ (List Machinery) |
| Feed Stuff: | _____ (List Feed Stuffs) |
| Fertilizer: | _____ (List Fertiliser) |
| Other: | _____ _____ (List Other) |

The Second Partner hereby agrees to transfer the following assets to the Partnership and they shall form the Second Partner's contributions to the Partnership capital.

| <u>ASSET</u> | <u>DETAILS (TYPE, NUMBER, QUANTITY ETC)</u> |
|---------------------------|---|
| Cash Contribution: | _____ (Specific Cash Contribution) |
| Livestock: | _____ (List Livestock or as per Livestock Appendix) |
| Machinery: | _____ (List Machinery) |
| Feed Stuff: | _____ (List Feed Stuffs) |
| Fertilizer: | _____ (List Fertiliser) |
| Other: | _____ _____ (List Other) |

PART 11

PARTNERSHIP BALANCE SHEET AT COMMENCEMENT OF PARTNERSHIP

| | First Partner | Second Partner | € | | € | € |
|------------------------------------|---------------|----------------|--------------|-----------------------------|---|---|
| Partners' Capital Accounts: | | | Total | Fixed Assets: | | |
| Opening Capital Accounts | | | | Machinery/Equip (WDV) | | |
| Capital Revaluation Reserve | | | | | | |
| | | | | Machinery/Equip Revaluation | | |
| Partners Current Accounts: | | | | Current Assets: | | |
| First Partner | | | | | | |
| Opening Balance (b/f) | | | | Livestock (bv) | | |
| Share of Profits | | | | | | |
| less: drawings | | | | | | |
| | | | | | | |
| Second Partner | | | | Bank | | |
| Opening Balance (b/f) | | | | | | |
| Share of Profits | | | | | | |
| less: drawings | | | | | | |
| | | | | | | |
| Partners Loan Accounts: | | | | | | |
| First Partner | | | | | | |
| Opening Balance (b/f) | | | | | | |
| New Loans | | | | | | |
| Less: repayments | | | | | | |
| | | | | | | |
| Second Partner | | | | | | |
| Opening Balance (b/f) | | | | | | |
| New Loans | | | | | | |
| Less: repayments | | | | | | |
| | | | | | | |
| Current Liabilities: | | | | | | |
| Creditors | | | | | | |
| | | | | | | |

FOURTH SCHEDULE

NON CAPITAL RESOURCES

1. The First Partner has made the following assets available for use by the Partnership. These shall not form part of the Partnership capital.

| <u>ASSET</u> | <u>DETAILS (TYPE, NUMBER, QUANTITY ETC)</u> |
|--------------------------------|--|
| Land | Land as per Schedule 1 of This Agreement |
| Buildings | |
| Milk Production Rights | |
| Basic Payments Entitlements | |
| Other production Subsidies | |
| Malting & Seed grain Contracts | |
| Other | |

2. The Second Partner has made the following assets available for use by the Partnership. These shall not form part of the Partnership capital

| <u>ASSET</u> | <u>DETAILS (TYPE, NUMBER, QUANTITY ETC)</u> |
|------------------------|--|
| Land | Land as per Schedule 1 of This Agreement |
| Buildings | |
| Milk Production Rights | |

| | |
|--------------------------------------|--|
| Basic Payments Entitlements | |
| Other production Subsidies | |
| | |
| Malting & Seed grain Contracts | |
| Other | |

FIFTH SCHEDULE

Warranties

Each Partner warrants that he has made due diligent and careful enquiries before giving any such warranty and further has used his best endeavours to ensure that all matters warranted herein are true accurate and complete.

1. ENTRY INTO AGREEMENT AND DISCLOSURE OF INFORMATION

- 1.1. The Partner warrants that he has and will have full power and authority to enter into and perform This Agreement.
- 1.2. All information given was, when given, and is now true accurate and complete in all respects.
- 1.3. To the best of the knowledge, information or belief of the Partner, there is no fact or matter which has not been disclosed in writing to the other Partners which renders the information referred to in paragraph 1.2 above untrue or misleading at the date of This Agreement or which on the basis of the utmost good faith ought to be disclosed to any intending Partner or the disclosure of which might reasonably affect the willingness of a person to enter into a Partnership for the consideration and on the terms contained herein or which might materially or adversely affect the present or future value of the Partnership.
- 1.4. The information set out in the Recitals and in each of the Schedules of This Agreement is true accurate and complete in all respects and there are no agreements to effect any changes which would have the effect of altering or amending that information including but without derogating from the generality of the foregoing any agreement binding on the Partnership.
- 1.5. The contents of the Disclosure Letter are true and accurate in all respects and fully and fairly disclose every matter to which they relate.
- 1.6. Each Partner has obtained adequate independent professional advice from appropriately qualified third parties prior to agreeing the Agreed Values.

2. ACCOUNTS

The Accounts of the Partner ("the Accounts") set out fairly the assets and liabilities (including without prejudice to the generality of the foregoing) all contingent and unqualified and disputed liabilities and all liabilities (in respect of taxation or otherwise) which may arise as a result of the

entry into This Agreement and the amounts thereof and shows a true and fair view of the financial position of the disclosing Partner.

3. COMPLIANCE WITH LEGISLATION

The Partner in all his dealings and in carrying on its business has complied with all applicable laws including The Regulations and all applicable Taxes Acts and environmental and planning legislation and qualifies in all respects with the terms of participation as prescribed in The Regulations.

4. TAXATION

- 4.1. All liabilities, whether actual, deferred, contingent or disputed of the Partner for Taxation measured by reference to income, profits or gains earned, accrued or received on or before the date of This Agreement or arising in respect of an event occurring or deemed to occur on or before the date of This Agreement have been paid or are fully provided for or (as appropriate) disclosed in the accounts in accordance with applicable legislation.
- 4.2. All returns, computations and payments which should be, or should have been, made by the Partner for any taxation purpose have been made within the requisite periods and are up to date, correct and on a proper basis and none of them is, or is likely to be, the subject of any dispute with the Revenue Commissioners or other taxation authorities.
- 4.3. The Partner has complied with all obligations under the Tax Acts, Capital Gains Tax Acts or Value Added Tax Act, the Social Welfare Acts, Health Contributions Act in relation to the payment or remittance of all taxes, levies, contributions, interest and penalties required to be paid and remitted under any such Act, the delivery of returns, and requests to supply to the statutory authorities account of or other delivery of returns, and requests to supply to the statutory authorities accounts of or other information about any business carried on by the disclosing Partner.

5. LITIGATION

- 5.1. The Partner is not a party to any litigation or arbitration proceedings of any kind or any proceedings before any governmental or other body, tribunal, assessor or expert in any jurisdiction and there are no proceedings of any of the aforesaid kinds pending or threatened either by or against the Partner and, to the best of the knowledge, information or belief of that Partner, there are no facts or circumstances which are likely or could give rise thereto nor is there any dispute with any revenue authority in relation to the affairs of that Partner.
- 5.2. To the best of the knowledge, information or belief of the Partner, neither that Partner nor its servants or agents or employees has committed or omitted to do any act or thing the commission or omission of which is or could be in contravention of any Act, order, regulation or the like giving rise to any fine or other penalty on the Partnership or which is likely to affect the Partnership's ability to carry on the Business of the Partnership or its financial position or profitability.
- 5.3. To the best of the knowledge, information or belief of the Partner, there are not pending, threatened, or in existence, any investigations or enquiries by or on behalf of any governmental or other body or any authorised officer thereof in respect of the affairs of that Partner or is not the subject of or adversely affected by any proceedings instituted by or against any person as a result of any investigation of any of that Partner's affairs and is not identified or referred to in any report by any inspector into the affairs of that Partner.
- 5.4. To the best of the knowledge, information or belief of the Partner, there are not pending, threatened, or in existence, any proceedings under the Family Home Protection Act, Family Law Acts, Judicial Separation and Family Law Reform Act, Divorce Act and Civil Partnership and

Certain Rights and Obligations of Cohabitants Act in being or affecting any premises to be transferred to or made available for use by the Partnership.

6. PROPERTY

6.1. The Partner warrants to the other Partners that he has:

- (1) the title or interest specified in respect of any property specified under his name in the First Schedule free from encumbrances save such as may be set out herein and disclosed by inspection of the documents of title
- (2) is in compliance with all applicable statutory requirements, including planning permission, environmental health and safety requirements and the terms of any lease.

6.2. Each Partner warrants to the other Partners that he has prior to entry into This Agreement obtained any third party consent that may be necessary to give effect to the obligations of that Partner under This Agreement.

7. EMPLOYEES

Each Partner warrants that his employees and the terms and conditions relating to employment are as identified in writing by the disclosing Partner and dated the date hereof and that he has no obligation to any of his employees past or present that has not been disclosed to the other Partner.

8. PRODUCTION RIGHTS, GLAS

That he has disclosed full details of all quotas, Basic Payments Scheme, GLAS entitlements and any other relevant information relevant to such entitlements, subsidies, grants or similar matter whatsoever.

9. The Partner warrants that each has notified the relevant agencies requiring notification of the entry into a Partnership for the purposes of continuance of or eligibility for the individual or the Partnership in any Department of Agriculture/European Union or other statutory scheme.

10. Each Partner warrants that he/she qualifies in all respects within the terms prescribed in Registration of Farm Partnerships Regulations SI 247 of 2015 as amended, extended or re-enacted from time to time to participate in a Partnership as contemplated therein.

EIGHTH SCHEDULE

Conciliation Procedure as referred to in clause 26.4 of the Agreement.

1. This procedure shall apply to any conciliation requested under clause 26.4 of the Agreement.
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.
3. The parties shall agree on a conciliator, and failing agreement within 10 days of notice under Article 2, shall request the Facilitator referred to at 26.2 above or a representative of Teagasc or a Farming Organisation to appoint a conciliator.
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 should at the same time notify the conciliator of the names of the persons appearing at the conciliation.
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.
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.
7. The conciliator may, having informed the parties, consult independent third party experts.
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.
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 clause 26.5 of the Agreement.
10. Each party to the conciliation shall pay their own costs. The parties shall be jointly and severally liable for the conciliators costs in equal shares, unless the conciliator decides otherwise.
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.

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.

SIGNED SEALED AND DELIVERED BY THE SAID

IN THE PRESENCE OF:-

CONSENT OF SPOUSE/CO-OWNER

I _____ being the (_____) of the first Partner

- (1) hereby consent to the within agreement for the term thereof in accordance with Clause 7 herein
- (2) hereby agree and declare that the first Partner may deal in all respects with any joint property of us as trustee on my behalf
- (3) hereby confirm and ratify any licence hereby granted
- (4) undertake irrevocably to execute any documentation necessary to give effect hereto on request

SIGNED BY THE SAID

IN THE PRESENCE OF:

SIGNED SEALED AND DELIVERED BY THE SAID

IN THE PRESENCE OF:-

CONSENT OF SPOUSE/CO-OWNER

I _____ being the (_____) of the second Partner

- (1) hereby consent to the within agreement for the term thereof in accordance with Clause 7 herein
- (2) hereby agree and declare that the second Partner may deal in all respects with any joint property of us as trustee on my behalf
- (3) hereby confirm and ratify any licence hereby granted
- (4) undertake irrevocably to execute any documentation necessary to give effect hereto on request

SIGNED BY THE SAID

IN THE PRESENCE OF:

APPENDIX 1
Livestock Appendix

PART I

The First Partner:

PART II

The Second Partner: