



A. For boarding the Boarder's undivided interest in the Herd, Dairy shall be paid by Boarder a uniform weekly boarding fee equal to \$48.00 per share of the Herd owned by Boarder or \$32.00 per half share of the Herd, during milking season, payable monthly. The first month's boarding fee is being paid with the execution of this Agreement. Thereafter, the uniform boarding fee shall be paid by Boarder to Dairy, in advance, on or before the first pick up day of each month during the time this Agreement is in effect, and for the number of pick up days in each respective month. [In addition to the boarding fee, Boarder shall also pay Dairy a non-refundable "jar deposit" for provision of jars by Dairy for Boarder's milk.] The parties agree the amount of the uniform boarding fee is a fair and reasonable charge equal to the actual average costs to be incurred by Dairy for its services to be provided to Boarder under this Agreement.

B. Dairy may change the boarding fee by giving thirty (30) days prior notice to Boarder in person or by mail or, if addresses or a facsimile number have been furnished to Dairy by Boarder, by email or facsimile transmission.

#### 4. Shares of Milk.

A. Boarder shall be entitled to receive the milk production from Boarder's undivided shares in the Herd. The milk production attributable to Boarder's undivided interest shall be [equal to Boarder's Percentage Interest in the total weekly milk production from the Herd][\_\_\_\_ [quarts][gallons] of milk per week]. Dairy will use best efforts to cause Boarder to receive the same amount of milk per unit of herd ownership each week, but because milk production may vary upwards or downwards from expected production rates, it is possible Boarder may receive less milk in any particular week. Dry Period – All of the Herd will have a dry period before kidding. During the "dry" period in which the Herd or part of the herd will not be producing, milk may not be available. Dairy will endeavor to inform Boarder of this situation as soon as reasonably possible. During dry times in which there may be no milk available to Boarder, Dairy will not charge Boarder a boarding/milking fee. Withdrawal Period – In some cases, goats in the Herd may need to be placed on medication(s) to treat illnesses. Many medications have a withdrawal period during which milk will not be available resulting in a reduction in total amount of milk produced from the Herd. Dairy will endeavor to inform Boarder of this situation as soon as reasonably possible after it becomes known.

B. Boarder (or another Herd Owner acting for Boarder) shall pick up Boarder's share of milk production at the at least one time per week (or more frequently if Dairy determines that to be necessary to preserve the milk for its owners) at times to be specified by Dairy; provided, that Dairy shall make every reasonable effort to make those times convenient for the Herd Owners by soliciting comments on scheduling from the Herd Owners. Boarder acknowledges that no person who is not a Herd Owner may pick up Boarder's share of the milk production for Boarder.

#### 5. Duties of Dairy.

In addition to any other duties provided in this Agreement, Dairy shall have the following duties in connection with the boarding of the Herd:

A. To receive the Herd for boarding at the and to provide any other reasonable services required of the Dairy in this Agreement or requested by the Herd Owners;

B. To maintain and care for the Herd using sound practices in accordance with a Herd Health Program and the Operating Standards that have been provided to Boarder. Boarder acknowledges receipt of the Herd Health Program and the Operating Standards, the provisions of which are incorporated into this Agreement by reference. Whether applicable to the operations of Dairy or not, Dairy shall also follow as closely as reasonably practicable at least the minimum of the standards commonly considered "good practices" in regard to raw milk dairy operations applicable to the caring of the dairy [cows][goats] and the handling of milk production from them;

C. To manage the Herd for and on behalf of the Herd Owners and to acquire and dispose of cows as

shall be necessary to maintain the health and productive capacity of the Herd;

D. To pay all expenses for maintaining and caring for the Herd as required above;

E. To provide reports to Boarder as shall be appropriate to apprise Boarder of the condition of the Herd and any other information which Dairy believes will be useful to Boarder in monitoring the health and performance of the Herd with respect to Boarder's interest in the Herd, which reports shall include results of tests performed on the goats that produce Boarder's milk and an explanation of the tests and test results.

6. Special Services. In addition to the uniform boarding fee and any other charges provided for specifically in this Agreement, should the Boarder request Dairy to perform any special services beyond the boarding and milking required under this Agreement, or if the Dairy should determine additional costs for special services are required to be incurred for the protection of the Herd and milk production from it, the Boarder and the Dairy shall agree as to the amount of additional charges, if any, to be paid by the Boarder to the Dairy for the special services.

7. No Sales of Milk. The Boarder and the Dairy acknowledge that the sale or distribution of raw milk is prohibited by the State of Colorado. Under no circumstances shall either the Boarder or the Dairy transfer the ownership or possession of any milk production from the Herd in any transaction which would constitute the sale or distribution of raw milk in violation of the statutes of the State of Colorado or the regulations of the Colorado Department of Public Health and Environment. The Boarder and the Dairy each agrees to indemnify and hold the other harmless for any liability, loss, damage, expense or penalties which are incurred by the other because of a breach of the provisions of this Section by the indemnifying party.

8. Lien for Charges; Enforcement.

A. The Dairy shall have, and the Boarder specifically grants to the Dairy, a lien and security interest in the undivided interest of Boarder in the Herd for all unpaid boarding and other charges resulting from the boarding and care of the animal and other services required or requested of the Dairy by the Boarder under and pursuant to this Agreement.

B. The Boarder agrees that in the event the charges due from the Boarder to the Dairy are not paid within the time provided herein or otherwise agreed between the Boarder and the Dairy, Dairy may exercise its lien rights, and in connection with such rights, may dispose of the Boarder's interest in the Herd for any and all unpaid charges at public or private sale, with or without public notice or notice to the Boarder of the sale, after ten (10) days notice to the Boarder of the unpaid charges. In the event the sale does not secure a sufficient price to pay the costs of board and other charges, plus costs of sale, the Boarder shall pay to Dairy the difference within ten (10) days of demand by the Dairy. Any amounts realized by the Dairy at the sale, over and above charges due and costs of sale, shall be returned to the Boarder.

9. Ownership; Transfer.

A. Boarder specifically represents and warrants to Dairy that Boarder is the owner of the undivided interest in the Herd described in the recitals and has acquired the interest in the Herd for the purpose of obtaining raw milk for Boarder's own use and benefit and for no other purpose.

B. The Boarder shall not transfer or assign any of the Boarder's rights or interests in the Herd or under this Agreement without the prior written consent of the Dairy, which consent shall not be unreasonably withheld, and without the transferee or assignee having entered into a Herd Agreement covering the interest being transferred or assigned prior to or contemporaneously with the transfer or assignment. The Boarder shall at no time and under no circumstance sell or exchange any of the Boarder's interest in the production from the Herd except in accordance with this Agreement and shall at all times use the

Boarder's share of production for the Boarder's own use. Any transfer or assignment or attempted transfer or assignment in violation of this Agreement shall be void. Because all of the Herd Agreements are interdependent and cannot function without all interests in the Herd being covered by them, notwithstanding the foregoing, if any court orders a transfer or assignment of an interest in a proper cause of action, the Court is requested to make the transfer or assignment subject to the terms of a Herd Agreement with respect to the transfer or assignment being ordered by the Court.

#### 10. Liability.

A. Dairy shall not be liable to Boarder for any loss of or damage to the Herd or for anything resulting from the care and maintenance of the Herd by Dairy or from handling of production from the Herd by Dairy so long as Dairy shall have complied with the requirements of this Agreement with respect to the Herd and the milk production from it. In addition, the Boarder acknowledges that activities on and about and dairy operations are inherently dangerous and if or when the Boarder or any other person under the direction or with the authority of the Boarder enters the , the Boarder or other person does so at his or her own risk and the Dairy shall have no responsibility for any injury or death that may result to or from the Boarder or other person being on the property in the absence of grossly negligent or intentional conduct of employees or agents of the Dairy. The Boarder shall indemnify and hold the Dairy harmless from any and all claims, liability, damage, loss, costs and expenses (including attorneys fees) incurred by the Dairy in defense or settlement of any claims against the Dairy asserted by the Boarder or another person authorized or directed to be on the Property by the Boarder for personal injury, death or property damage unless the personal injury, death or property damage was the direct result of gross negligence or intentional acts or omissions of the Dairy.

B. The Boarder acknowledges that the Colorado Department of Public Health and Environment, the federal Food and Drug Administration and other authorities have issued information and warnings regarding hazards of consuming raw milk. The Boarder assumes all responsibility for consuming raw milk produced from the Herd. The Dairy shall not be liable to the Boarder for any sickness, death, loss or damage from the production of raw milk produced and delivered to the Boarder from the Boarder's share of the Herd unless the Dairy shall have failed to comply with the Herd Health Program and the Operating Standards provided to the Boarder and the sickness, death, loss or damage shall have resulted directly from the failure of the Dairy to so comply.

C. Notwithstanding the foregoing, Dairy shall indemnify and hold Boarder harmless for any loss, damage, liability or expense caused by any animal in the Herd to the person or property of Herd Owners or third parties because of the gross neglect or intentional act or omission of Dairy.

11. Damage Claims. In the event Boarder seeks to assert any claim against Dairy for any reason in connection with this Agreement or the activities of Dairy under it, Boarder must file a written claim with Dairy stating the nature of the claim and the amount of relief sought within one hundred eighty (180) days after Boarder becomes aware of the circumstances giving rise to the claim. Unless Boarder files the claim within the prescribed time, Boarder waives any and all rights that Boarder may have against Dairy for any liability arising under this Agreement.

12. Arbitration of Disputes. All disputes, claims, and questions regarding the rights and obligations of the parties under the terms of this Agreement are subject to binding arbitration by one arbitrator from the Judicial Arbitrator Group of Denver, Colorado, or any other arbitrator upon which the parties agree. Either party may make a demand for arbitration by filing a demand in writing with the other party within one hundred eighty (180) days after the dispute first arises. The arbitration shall be conducted in accordance with the rules of the arbitrator. Each party shall pay the party's own costs in connection with the arbitration and the costs of the arbitrator shall be paid in equal amounts by the parties. Any award made by the arbitrator may be entered as a judgment in a court of the State of Colorado in

accordance with Colorado law and the rules of the Colorado courts.

13. Effective Date.

This Agreement shall be effective upon the first day of the month following the execution of Herd Agreements by all of the Herd Owners except any interest in the Herd held by the Dairy which will be responsible for obligations that are the same as those under this Agreement with respect to the Dairy's interest in the Herd. Dairy shall promptly notify Boarder of the effective date of the Agreement.

14. Term; Termination.

A. If this Agreement is terminated with a replacement Herd Agreement being signed or the Dairy agreeing to assume the Boarder's obligations under this Agreement, Boarder agrees to sell the Boarder's interest in the Herd and execute appropriate transfer documents to the person(s) signing the replacement Herd Agreement or to the Dairy so long as the Boarder shall receive a price at least equal to the price the Boarder originally paid for the Boarder's interest in the Herd.

B. If a replacement Herd Agreement is required to be obtained under any provision of this Agreement or a provision of other Herd Agreements, the Dairy may assume for its own account the obligations under those provisions and in which case the assumption shall be considered the equivalent of a replacement Herd Agreement; provided that in assuming the obligations for any reason, the Dairy will take no actions which would involve the sale or distribution of milk from the Herd in contravention of a Herd Agreement or the laws and applicable regulations of the State of Colorado.

15. Force Majeure.

Notwithstanding anything to the contrary in this Agreement, the Dairy shall not be responsible for any delay or failure of its performance under this Agreement if the delay or failure is caused by any matter beyond the control of the Dairy including, but not limited to, an illness in the Herd not caused by a breach of the Dairy's duties under this Agreement and which the Dairy has promptly taken steps to have treated or corrected, death of goats in the Herd which does not result from a breach by the Dairy of its duties under this Agreement, government regulations public emergency or necessity, legal restrictions, labor disputes and actions related thereto, riot, war, insurrection, windstorms, rainstorms, snowstorms, floods or other acts of God.

16. Miscellaneous.

A. Construction. When necessary for proper construction, the masculine of any word used in this Agreement shall include the feminine and neuter gender, the singular, the plural, and vice versa.

B. Governing Law. This Agreement is being executed and delivered in the State of Colorado and shall be construed in accordance with and governed by the laws of that state without regard to its rules of conflicts of laws.

C. Captions. The captions of sections and subsections contained in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

D. Entire Agreement. This Agreement constitutes the entire contract between the parties and may not be modified or amended except in writing signed by both parties.

E. Waiver. No assent or waiver, expressed or implied, to any breach of any one or more of the covenants or agreements hereof shall be deemed or taken to be a waiver of any succeeding breach.

F. Binding Effect. This Agreement and each of its provisions shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates shown below to be

effective on the date described above.

BOARDER :

DAIRY :

\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(phone #)  
\_\_\_\_\_  
(Email)

Milky Way Mountain Caprines  
Heather D'Alessio, Owner  
75 Dragoon OL, Crestone CO 81131  
  
Milkywaymountain@gmail.com

By: \_\_\_\_\_  
(Signature) (Date)

By: \_\_\_\_\_  
(Signature) (Date)

Mutually agreed upon pickup day/time : \_\_\_\_\_

