

## **Lucky Moon Gardens Dairy Goat Share Agreement and Boarding Contract**

THIS AGREEMENT is made and entered into to be effective as provided herein by and between Lucky Moon Garden's, whose address is 4550 Lowesville Road, Piney River, VA 22964 (herein called "Dairy"), and the Buyer/Boarder (herein called "Boarder"), whose name and address are documented via alternate form attached to this document.

### **RECITALS**

A. Dairy is the owner of dairy facilities located at 550 Lowesville Road, Piney River, VA 22964 (the "Farm"), for the holding, caring for, handling and milking of dairy goats (female caprines).

B. Boarder is the owner of:

An undivided interest of full, half, or monthly full or half share(s) in a herd (herein called the "Herd") of dairy goats located at the Farm, and all replacements and increase of the dairy goats, which herd constitutes and shall constitute all of the dairy goats, producing or dry, at that location.

C. Boarder and Dairy (together with the owners of all the undivided interests in the Herd who are each entering into an agreement with Dairy substantially similar to this one) desire to have the Herd boarded with Dairy and to have Dairy care for and milk the dairy goats in the Herd and Dairy desires and is willing to take on the obligations provided for it in this Agreement.

### **AGREEMENTS**

NOW, THEREFORE, for and in consideration of the recitals and the mutual obligations contained in this Agreement, the parties agree as follows:

1. Definitions. In addition to other terms defined in this Agreement, for purposes of this Agreement, the terms:

A. "Boarding" shall mean having possession of, feeding, maintaining and caring for the Herd, milking the Herd and preparing the production of milk from the Herd for pick up by the individual Herd Owners.

B. "Herd Agreements" shall mean collectively this Agreement and all of the other agreements substantially similar to this one signed by the owners of other undivided interests in the Herd.

C. "Herd Owners" shall mean collectively all of the owners of undivided interests in the Herd, including any interests owned by Dairy.

D. "Percentage Interest" shall mean the undivided percentage interest of Boarder (or another person) in the Herd determined by dividing the number of the Boarder's (or other person's) undivided shares in the Herd by the total number of shares created and existing from time to time in the entire Herd.

2. Delivery of Herd for Boarding. Upon the execution of agreements substantially similar to this one by the owners of all the ownership interests in the Herd (except

interests retained by the Dairy), Dairy shall take possession of the Herd for and on behalf of the owners.

### 3. Boarding Fees.

A. For boarding the Boarder's undivided interest in the Herd, Dairy shall be paid by Boarder a uniform monthly boarding fee equal to \$1 per day or annually as needed of the Herd owned by Boarder. 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 day of each month during the time this Agreement is in effect. The Boarder may choose to pay via PayPal subscription through the Dairy website, in which case the payment date will be set and automatically transferred each month. In addition to the boarding fee, Boarder also agrees to pay dairy:

Returned Check Charge – A returned check charge of \$50.00 may be assessed by Dairy for any returned check.

Jar Fee – The Boarder shall pay the Dairy a jar fee of \$2-4 per jar and lid and depending on size. This fee shall be paid upon receipt of dairy product.

Usage – The Boarder agrees not to use jars for any other purposes than to hold the Boarder's share of milk. The jars will not be used for fermenting, culturing, etc. Jars must be returned in the condition in which the Boarder would like to receive their milk, clean and dry.

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 e-mail 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. 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 more or less milk in any particular week.

B. Boarder (or another Herd Owner acting for Boarder) shall pick up Boarder's share of milk production at the Farm or agreed upon pick-up location 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 Farm 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 the Farm philosophy and as outlined on the Farm's website. Whether applicable to the operations of Dairy or not, Dairy shall also follow as closely as reasonably practicable the requirements of Virginia health laws and regulations applicable to the caring of the dairy 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 goats 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 Virginia. 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. 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.

C. 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 farm 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 Farm, 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 Farm 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 Farm 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.

D. The Boarder acknowledges that the State of Virginia, the federal Food and Drug Administration and other authorities have issued information and warnings regarding hazards of consuming raw milk. The Boarder, Boarder's family and Boarder's guests assume all responsibility for consuming raw milk produced from the Herd. The Dairy shall not be liable to the Boarder, Boarder's family or Boarder's guests 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 Standard 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 an 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 Virginia in accordance with Virginia law and the rules of the Virginia courts.

13. Effective Date. Unless otherwise agreed, 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. This Agreement shall continue for each season so long as obligations under or similar to those under Herd Agreements are in effect for the entire Herd.

B. If any one of the Herd Agreements, other than this one, shall be terminated for any reason, this Agreement shall continue in effect and the Dairy and the remaining Herd

Owners may seek to obtain one or more Herd Agreements covering that portion of the Herd which was covered by the terminated Herd Agreement(s). If a replacement Herd Agreement is not obtained within one hundred eighty (180) days following the date of termination of the terminated Herd Agreement, this Agreement may be terminated by the Dairy pursuant to subsection 14.C below.

C. This Agreement may be terminated by the Dairy upon ninety (90) days notice to the Boarder so long as the Dairy shall terminate all the Herd Agreements at the same time or has found a replacement Herd Agreement for this Agreement.

D. This Agreement may be terminated by the Boarder (a) if the Boarder together with other Herd Owners having Herd Agreements which together cover a majority of the goats in the Herd notify the Dairy of the termination of the Herd Agreements within a period of twenty (20) days of each other; (b) or the Boarder has found another person who is acceptable to the Dairy to acquire the Boarder's interest in the Herd and to sign a Herd Agreement substantially the same as this one.

E. Upon termination of this Agreement pursuant to section 14.C or D above, without a replacement Herd Agreement being signed, the Boarder agrees that a committee of three Herd Owners may be appointed by the Herd Owners (or if they fail to agree within thirty (30) days, by the Dairy), which committee shall review all of the animals in the Herd and provide to the Boarder and all other Herd Owners a recommended list of assignments to be made to transfer ownership of the animals in the Herd to the Boarder and all other Herd Owners so that the undivided interests of the Boarder and all other Herd Owners in the Herd shall become undivided interests in separate specific animals in the Herd. The objective shall be to provide for a few Herd Owners to own an individual goat so that they might dispose of it or arrange for other boarding more easily. The interests to be created shall be created by transferring each Herd Owner's shares in the herd as a whole to one or, if necessary, more goats. For example, if a Herd Owner has three undivided shares in the Herd as a whole and thirty shares equals the number of shares which would be equivalent to one goat, the Herd Owner would be given three undivided shares out of thirty (or 10%) in one goat and would then have no interest in any other goats in the Herd. The Boarder agrees to this technique and further agrees to execute any documents necessary to accomplish the recommendations of the committee.

F. 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.

G. 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 Virginia.

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 cows 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 Virginia 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.

G. 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.

Lucky Moon Gardens Herd Share Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates shown below (or as shown on electronic submission) to be effective on the date described above.

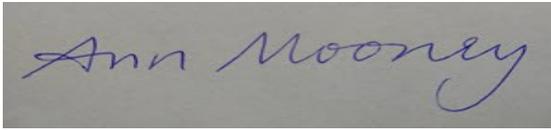
I enter this contract after accepting the terms outlined in the Goat Share Agreement which I have read.

Lucky Moon Garden's Dairy accepts the contracts in print or virtual formats.

Please download the goat share agreement for your records then print the last page and sign and return to Lucky Moon Gardens. Email requests accepted as contract.

DAIRY / LUCKY MOON GARDENS

BOARDER / SHAREHOLDER:



\_\_\_\_\_  
(Print Name)

Ann Mooney, Owner  
Piney River, VA 22964  
(434) 962-3011

\_\_\_\_\_  
(Address)

Date: January 1, 2020

\_\_\_\_\_  
(telephone)

\_\_\_\_\_  
(email)

Date: \_\_\_\_\_