

## **BOVINE BOARDING CONTRACT**

THIS AGREEMENT is made and entered into to be effective as provided herein by and between INDIANA COW OWNERS ASSOCIATION, (herein called "Association"), and APPLE FAMILY FARM, whose address is 7806 N 300 W McCordsville, IN 46055, (herein called "Boarder").

### **RECITALS**

A. Apple Family Farm is the lessee of dairy facilities at 3365 W SR 234; McCordsville, IN for the holding, caring for, handling and milking of dairy cows (female bovines).

B. Indiana Cow Owners Association has arranged with Apple Family Farm to use its facilities for the boarding and milking by Boarder on behalf of Association and others of the dairy cows that will constitute the hereafter defined Herd.

C. Association is the owner of:

An undivided interest of Two Hundred, Twenty (220) shares in a herd (herein called the "Herd") of dairy cows (female bovines) located at the Apple Family Farm facilities, the address of which is 3367 W SR 234, McCordsville, IN 46055, and all replacements and increase of the dairy cows, which herd constitutes and shall constitute all of the dairy cows, producing or dry, at that location.

D. Association (together with the owners of all the undivided interests in the Herd who are each entering into an agreement with Association or Boarder substantially similar to this one) desires to board the herd with Boarder and to have Boarder care for and milk the cows in the Herd and Boarder desires to take on the boarding obligation.

### **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. "Boarder" shall mean Apple Family Farm who will have 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 Herd owners or their agent(s).

B. "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 Herd owners or their agent(s).

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

D. "Herd Owners" shall mean collectively all of the owners of undivided interests in the Herd.

E. "Percentage Interest" shall mean the undivided percentage interest of Boarder (or another person) in the Herd determined by dividing the total number of the Boarder's (or other person's) undivided number of 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, Association shall take possession of the Herd for and on behalf of the owners.

3. Boarding Fees. For boarding the Herd, Association shall pay to Boarder a uniform monthly boarding fee equal to \$16.00 per share of the herd owned by Association. The first month's boarding fee is being paid with the execution of this Agreement. Thereafter, the uniform boarding fee shall be paid by Association to Boarder, in advance, on or before the \_\_\_\_\_ day of each month during the time this Agreement is in effect. 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 Boarder for its services to be provided to Association under this Agreement.

4. Shares of Milk.

A. Association shall be entitled to receive the milk production from Association's undivided shares in the Herd. The milk production attributable to Association's undivided interest shall be equal to Association's Percentage Interest in the total weekly milk production from the Herd.

B. Association shall pick up owners' share of milk production at the Apple Family Farm facilities at least one time per week (or more frequently if Association determines that to be necessary to preserve the milk for its owners) at times to be specified by Association; provided, that Association shall make every reasonable effort to make those times convenient for the Herd Owners by soliciting comments on scheduling from the Herd Owners.

5. Duties of Apple Family Farm. In addition to any other duties provided in this Agreement, Apple family Farm shall have the following duties in connection with the boarding of the Herd:

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

B. To maintain and care for the Herd using sound practices in accordance with the health standards and operating standards attached to this Agreement and incorporated in it by reference and, whether applicable to the operations of Apple Family Farm or not, as closely as reasonably possible to the requirements of the Association of American Medical Milk Commission's health guidelines and regulations applicable to the caring of female bovines and the handling of milk productions 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 Association as shall be appropriate to apprise Association of the condition of the Herd and any other information that will be useful to Association regarding the health and performance of the Herd with respect to Association's interest in the Herd.

6. Special Services. In addition to the uniform boarding fee provided for in this agreement, should Association request Apple Family Farm to perform any special services beyond the boarding and milking required under this Agreement, Boarder and Association shall agree as to the amount of additional charges, if any, to be paid by Association to Boarder for the special services.

7. No Sales of Milk. Boarder and Association acknowledge that the sale of raw milk may, at any time, be prohibited by the State of Indiana. Under no circumstances shall either Boarder or Association transfer the ownership or possession of any raw milk production from the Herd in any transaction that would constitute a sale of milk in violation of the statutes of the State of Indiana. Boarder and Association 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. Under no circumstances can the acquisition of any owner's share of the milk production be construed to be a sale. An owner cannot buy from himself what he already owns.

8. Lien for Charges; Enforcement.

A. Boarder shall timely pay all expenses resulting from boarding and other charges resulting from the boarding and care of the Herd. Association shall have, and Boarder specifically grants to Association, a lien and security interest in the undivided

interest of the Herd for all unpaid boarding and other charges resulting from the boarding and care of the animals, bottles, supplies, and other services.

B. Boarder agrees that in the event the expenses incurred by Boarder are not paid within the time provided herein or otherwise agreed between Boarder and Association, Boarder may dispose of a reasonable number of the Herd for any and all unpaid charges at public or private sale, with or without public notice, after ten (10) days notice to Association. Regardless, Association's number of units constituting the measure of Association's undivided interest in the Herd cannot be decreased.

9. Ownership; Transfer.

A. Boarder specifically represents and warrants to Association 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 Boarder's own use and benefit.

B. Boarder shall not transfer or assign any of Boarder's rights or interests in the Herd or under this Agreement without the prior written consent of Association, 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. Boarder shall at no time and under no circumstance sell or exchange any of Boarder's interest in the production from the Herd and shall at all times use the Boarder's share of production for Boarder's own use. 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. Association 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 Boarder or from handling of production from the Herd.

B. Association shall not be liable to Boarder for any sickness, death, loss or damage from the production of raw milk produced and picked up by owners of the Herd.

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

any and all right that each may have against the other party 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 arbitration. 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. Thereafter, the arbitration shall be conducted by three arbitrators (one appointed by Boarder, one by Association, and a third by the other two arbitrators) in accordance with the rules of commercial arbitration of the American Arbitration Association. Each party shall pay the party's own costs in connection with the arbitration, and costs of the arbitrators shall be paid in equal amounts by the parties.

13. Effective Date; Termination.

A. This Agreement shall be effective upon the day following the execution of this Agreement.

B. This Agreement shall continue for one year. If any one of the Herd Agreements, other than this one, shall be terminated for any reason, this Agreement shall continue in effect for an additional one hundred eighty (180) days during which time Association 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 the specified time period, this Agreement may be terminated by Association pursuant to subsection 14.A below. In seeking a replacement Herd Agreement, Association may for its own account determine to take on the obligations under a terminated Herd Agreement; provided that in so doing, Association will take no actions which would involve the sale of milk from the Herd in contravention of a Herd Agreement or the laws and applicable regulations of the State of Indiana.

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

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

C. Upon termination of this Agreement pursuant to subsections 14.A and B above, without a replacement Herd Agreement being signed, transfer of ownership of the animals in the Herd will be to Boarder.

D. If this Agreement is terminated with a replacement Herd Agreement being signed, Boarder agrees to sell Boarder's interest in the Herd to the person(s) signing the replacement Herd Agreement so long as Association shall receive a price at least equal to the price Association originally paid for Association's interest in the Herd.

15. Force Majeure. Notwithstanding anything to the contrary in this Agreement, Boarder and Association 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 either party including, but not limited to, an illness in the Herd not caused by a breach of Boarder's duties under this Agreement and which Boarder has promptly taken steps to have treated or corrected, death of cows in the Herd which does not result from a breach by Boarder 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 Indiana and shall be construed in accordance with and governed by Common Law associated with sovereign citizens first and the laws of such state second.

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. Incorporation by Reference. All schedules, exhibits and attachments referred to in this Agreement are incorporated by reference and made a part of this Agreement.

G. Assignment. 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:

INDIANA COW OWNERS ASSOCIATION:

By

-

(Signature)

-

(Print Name

-

-

(Address)

-

(Telephone)

By

-

-

(Print Name)

-

(Title)

-

(Telephone)

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

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





**BILL OF SALE**

(Undivided Interest in Cow Dairy Herd)

KNOW ALL MEN BY THESE PRESENTS, INDIANA COW OWNERS ASSOCIATION, (Seller"), for and in consideration of the sum of \$16.00 per month per share and other good and valuable consideration to it in hand paid, at or before the ensealing or delivery of this instrument by

\_\_\_\_\_ whose address is

\_\_\_\_\_  
("Buyer"), the receipt and sufficiency of which is hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto the Buyer, his/her personal representatives, successors and assigns, the following property, goods and chattels, to wit:

An undivided interest of \_\_\_\_\_ (\_\_\_\_\_)units in a herd of dairy cows (female bovines) located at the Apple Family Farm, the address of which is 3356 W SR 234, McCordsville, IN 46055 and all replacements and increase of the dairy cows, which herd constitutes and shall constitute all of the dairy cows producing or dry, at that location.

TO HAVE AND TO HOLD the same unto the Buyer, his/her personal representatives, successors and assigns, for as long as INDIANA COW OWNERS ASSOCIATION holds their present contract with Apple Family Farm. The Seller covenants and agrees to and with the Buyer, his/her personal representatives, successors and assigns, to WARRANT AND DEFEND the sale of the undivided interest in the property, goods and chattels, against all and every person or persons whomever. When used herein, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Buyer understands and agrees that in accepting this Bill of Sale the number of cows in the herd may increase or decrease in which event the Buyer's percentage interest in the herd may decrease or increase, as the case may be, but in none of those events will Buyer's number of units constituting the measure of Buyer's undivided interest in the herd be increased or decreased.

IN WITNESS WHEREOF, the Seller has executed this Bill of Sale

On \_\_\_\_\_, 2003

INDIANA COW OWNERS ASSOCIATION

By \_\_\_\_\_

Title \_\_\_\_\_