

## BOVINE AGISTMENT AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Boundary Creek Farm LLC d/b/a Der Dairy at Boundary Creek Farm (“Agister”) and \_\_\_\_\_ (“Owner”) is a boarding contract.

### RECITALS

Agister possesses dairy facilities at 817 Lott Bluff Road, Blackville, SC 29817 (the “Dairy Facilities”), for the holding, care, handling, and milking of dairy cows. Owner wishes to board the cow(s) constituting his/her undivided interest in the herd of dairy cows (the “Herd”) at the Dairy Facilities.

Agister has agreed to provide care and boarding for the Herd at the Dairy Facilities for a fee of thirty-nine dollars (\$39.00) per month per full share, or twenty-two dollars (\$22.00) per month per half share, on behalf of the Owner (together with all other Herd Owners also entering into a similar agreement with Agister). If Owner purchases two or more full shares, there will be a ten percent (10%) discount on the total monthly boarding fee.

The parties agree as follows:

1. Definitions. In addition to other terms defined in this Agreement, for purposes of this Agreement, the words:
  - A. “Agister” shall mean Boundary Creek Farm LLC d/b/a Der Dairy at Boundary Creek Farm.
  - B. “Agistment” shall mean pasturing, feeding, maintaining, caring for, and milking the Herd at the Dairy Facilities, and making available the Herd’s milk production for the Herd Owners.
  - C. “Herd” shall mean the dairy cows referred to above, augmented annually by any increases (male or female) and replacements, and diminished annually by any decreases.
  - D. “Herd Agreements” shall mean, collectively, this Agreement and all other similar agreements signed by all other Owners of the Herd.
  - E. “Owner” shall mean a person who possesses an undivided interest in the Herd.
  - F. “Herd Owners” shall mean, collectively, all of the Owners of undivided interests in the Herd.
  - G. “Percentage Interest” shall mean the undivided percentage interest of Owner (or another person) in the Herd determined by dividing the total number of the Owner’s (or other person’s) shares in the Herd by the total number of shares authorized to be sold in the Herd.
2. Share(s) of the Herd.
  - A. As evidenced by the document attached hereto and titled Bovine Bill of Sale, Owner has purchased \_\_\_\_\_ share(s) in the Herd at forty-five dollars (\$45.00) per full share, or twenty-five dollars (\$25.00) per half share.
  - B. Owner expressly disclaims any ownership rights to any calves that may be born into the Herd from time to time or meat that may be harvested. Owner acknowledges that calves may or may not

become a part of the Herd at the Agister's discretion and, if the Agister sells the calves, Owner expressly disclaims any interest in the proceeds from that sale.

3. Boarding Fees.

A. Owner shall pay to Agister a monthly care and boarding fee of thirty-nine dollars (\$39.00) per full share, or twenty-two dollars (\$22.00) per half share, owned by Owner. If Owner purchases two or more full shares, there will be a ten percent (10%) discount on the total monthly boarding fee. The first month's fee is to be paid with the execution of this Agreement, and Owner agrees s/he is thereafter responsible for paying the fee each month when milk shares are picked up, and even if milk shares are not picked up. The date that milk shares are picked up will be set by the Agister based on availability of milk and may be subject to change based on supply. If Owner does not pick up his/her milk share within two (2) days after scheduled date, milk may be disposed of as Agister prefers and as permitted by law. The parties agree that the amount of the care and boarding fee set forth herein is a fair and reasonable charge for the services and supplies to be provided by Agister to Owner under this Agreement. Payment shall be made by cash, check, Venmo, PayPal or other method agreed upon by the parties. A two dollar (\$2.00) convenience fee shall be added to all Venmo and PayPal transactions.

B. Agister may, at its discretion, adjust the fee up to twice per calendar year to cover any increased expense of boarding and caring for the Herd, such increase not to exceed 15% annually. If Agister determines, or Owner requests, any special services beyond those required under this Agreement, Agister will inform Owner of the amount of additional charges to be paid by Owner.

4. Allocation of Milk.

A. It is estimated that one full share will typically yield one (1) gallon per week of the Herd's milk production, and a half share will typically yield one-half (½) gallon per week..

B. Agister shall provide half-gallon glass jars with lids for the storage of milk. Agister shall provide four (4) jars and lids per full share and two (2) jars and lids per half share. Owner assumes all responsibility for cleaning and returning the jars and lids at next milk pickup to Agister for refilling. Agister may impose an additional charge of five dollars (\$5.00) to replace broken, unclean, unreturned, or unusable jars or lids. Return of cleaned jars and lids is a condition of this Agreement.

C. The dates and times for milk pickup will be agreed upon in advance between the parties and shall thereafter remain consistent each week. Owner agrees to receive his/her share of milk directly and in person. Agister will not release Owner's milk to anyone but the Owner, or the Owner's agents. For convenience of all parties, a herdshare refrigerator is available on premises where each member has a labeled area where their milk will be placed. Owner may pick -up their ONLY their share on their designated day by removing the filled jars and replacing them with the empty jars from the previous week. A drop box is also available for any payment that needs to be made.

D. Owner agrees that all milk obtained from the Herd will be used only for consumption by Owner and his/her immediate family and accepts all risk and responsibility of consumption by anyone, including but not limited to himself/herself and his/her immediate family.

5. Duties of Agister. Agister's duties under this Agreement shall include:

- A. Boarding the Herd at the Dairy Facilities, and maintaining and caring for the Herd pursuant to the aspirational herd health protocols attached to this Agreement to the extent possible (**Exhibit A**);
- B. Managing the Herd for the Herd Owners and acquiring and disposing of cows as needed to maintain the health and production of the Herd;
- C. Paying all expenses to maintain and care for the Herd as required above, except that Owner shall pay pro rata on a per share basis extraordinary veterinary expenses, which include, but are not limited to, all tests conducted in accordance with **Exhibit A**; and
- D. Providing appropriate reports to apprise Owner of the condition, health, and performance of the Herd.

6. No Sales of Milk/Indemnification. Agister and Owner acknowledge that the unlicensed retail sale of raw milk is prohibited, and the on-farm sale of raw milk is subject to certain restrictions, in the state of South Carolina. Agister and Owner agree not to transfer the milk from the Herd in any transaction that would constitute a retail sale of raw milk, and each agrees to indemnify and hold the other harmless for any liability, loss, damage, expense or penalties that result from a breach of this Paragraph.

7. Enforcement. Owner shall timely pay the care and boarding fee and agrees that if payments are not paid when due, or as otherwise arranged with the Agister, Agister may, ten (10) business days after having notified Owner in writing, dispose of Owner's interest in the Herd at public or private sale, or Agister may acquire Owner's interest in the Herd in satisfaction of the debt.

8. Ownership.

- A. Owner agrees that ownership in the Herd does not entitle Owner to any rights in real or personal property owned by the Agister or Farm.
- B. Owner and Owner's immediate family may visit the Dairy Facilities where the Herd is boarded by prior appointment only and agrees that s/he may only visit the Dairy Facilities under the supervision, and with the express permission of the Agister.

9. Owner's Assumption of Risk and Waiver of Claims.

- A. Owner understands and acknowledges that raw milk may contain harmful pathogens and that its consumption is not recommended by the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), and the South Carolina Department of Agriculture. Owner agrees to educate family members about the risks of consuming or improperly storing raw milk and releases Agister from any responsibility for the education of Owner's family members or guests.
- B. Owner acknowledges that there may be risks of harm when entering Agister's premises, including but not limited to proximity to farm equipment, and visiting and/or interacting with the Herd and other farm animals.

A. By signing this Agreement, Owner hereby knowingly and voluntarily assumes the risk of any and all such harm and also hereby waives any and all right to make, file, or pursue any claims,

demands, suits, actions, causes of action, damages, etc. against the other Herd Owners, Agister or any of Agister's agents, employees, representatives, principals, lessors, lessees, vendors, contractors, subcontractors, etc. that may arise out of, or in any way relate, to any injury, illness, death, loss or damage:

- (1) caused to the Owner, in whole or in part, by (a) the handling or consumption of raw milk produced by the Herd; or (b) visiting or entering upon Agister's premises or any premises where the Herd is located; or (2) caused to the Herd, in whole or in part, by the care and/or boarding of the Herd by Agister.

10. Indemnification. Owner shall indemnify, defend, and hold harmless Agister and Agister's agents, employees, representatives, principals, lessors, lessees, vendors, contractors, subcontractors and all other Herd Owners against any and all demands, claims, liabilities, suits, actions, causes of action, etc. for any injury, illness, death, loss, costs, or damage that arises out of or relates in any way to (1) any handling, consumption, or use of any milk produced by the Herd after it has been retrieved or otherwise obtained by Owner, (2) the visit of any person that Owner brings to or causes to visit Agister's premises or any premises where the Herd is located, and/or (3) any failure on the part of Owner to comply with the terms of this Agreement or with any rules, procedures, directions, orders, etc. of Agister that are authorized or permitted by this Agreement.

11. Claims. Should either Agister or Owner seek to assert any claim against the other for any reason in connection with their duties and responsibilities in this Agreement, other than a claim of nonpayment under **Section 7**, the nature of the claim shall be made in writing and served on the other party within one hundred eighty (180) calendar days of learning of the circumstances giving rise to the claim. Otherwise, such claim shall be waived.

12. Arbitration of Disputes. All disputes, claims, and questions regarding the parties' rights and obligations under this Agreement (other than a claim of nonpayment under **Section 7**) are subject to arbitration. A written demand for arbitration may be served by either party on the other within one hundred eighty (180) calendar days after the dispute first arises, including any demand for arbitration served in compliance with a written claim made pursuant to **Section 11**. The parties shall agree on an arbitrator in accordance with the rules of the American Arbitration Association, and each party shall pay its own arbitration costs, except the costs of the arbitrators shall be shared equally.

13. Termination.
- A. This Agreement shall be effective upon execution and continue until terminated by either party upon written notice served by email, regular, or registered mail (return receipt requested) to the email or street address of each party provided in this Agreement not less than ten (10) calendar days prior to the expressly stated date of termination, unless caused by catastrophic loss of Herd animals or due to acts of God, and in such case notice shall be given as soon as practicable. Receipt shall be effective as of the day after electronic transmission or mailing.
  - B. Upon termination of this Agreement by Agister, Owner may demand that Agister purchase Owner's shares at the price originally paid.

14. First Right of Refusal. Upon written notice of termination of this Agreement by Owner, Agister has the first right of refusal to purchase Owner's shares at the price initially paid. Should Agister not exercise his/her first right of refusal, any transfer of Owner's interest may only occur with Agister's approval, which shall not be unreasonably withheld.

15. Force Majeure. Neither Agister nor Owner shall be responsible for any delay or failure of his/her performance under this Agreement if caused by any matter beyond the control of that party, including, but not limited to: government regulations, public emergency, public health emergency or necessity, herd diseases that result in quarantines or depopulation, legal restrictions, labor disputes and actions related thereto, riot, war, or insurrection, and windstorms, rainstorms, ice storms, snowstorms, floods or any 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 gender neutral; the singular, the plural; and vice versa.
- B. Governing Law. This Agreement is being executed, delivered, and shall be construed in accordance with and governed by the laws of the State of South Carolina.
- C. Severability. If any provision(s) of this Agreement is invalid, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.
- D. Waiver. No express or implied assent or waiver to a breach of any one or more of the provisions above shall constitute a waiver of any succeeding breach.
- E. 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 or dates described above.

_____	_____	_____	_____
Agister Signature	Date	Owner Signature	Date
_____	_____	_____	_____
Print Name		Print Name	
_____	_____	_____	_____
Address		Address	
_____	_____	_____	_____
Email		Email	

Exhibit A

**Farm Operating Standards and  
Herd Health Protocols**

Agister hereby agrees to operate Der Dairy at Boundary Creek Farm, located at 817 Lott Bluff Road, Blackville, SC 29817 (the "Farm"), under the general standards below, which are subject to change:

1. Dairy animals will be kept clean and milked in clean stables/parlors where rodents, flies, and manure will be controlled, and the Farm will not be littered with dead livestock or have persistent standing water or mud near milking areas.
2. Milk will never be produced for consumption from any dairy animal with any apparent illness or from any animal treated with antibiotics or other drugs that require a withdrawal period. If a dairy animal is treated with drugs for illness, milk produced from the treated dairy animal will be discarded during the withdrawal period specified by the drug's manufacturer. If a dairy animal is treated with antibiotics, then milk will be tested and found to be antibiotic-free before returning to milk line.
3. Milk will be tested weekly using a California Mastitis Test.
4. Dairy animals will be fed a pasture- and/or hay- or forage-based diet depending on climate conditions. A weighted custom dairy ration is fed to the cows daily.
5. The Farm will, upon request, advise Owner concerning the appropriate handling of milk produced by animals boarded at the Farm.
6. If Owner becomes aware of specific instances in which these standards, contained within Exhibit A, are not being met, Owner will promptly notify Agister regarding these instances and Agister will make reasonable efforts to take corrective action or advise owner of corrective actions currently being taken.
7. If provisions within Exhibit A are not met, it will not constitute a breach of contract.

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Agister Sign

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Owner Sign

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Print Name

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Print Name