

Sharemilking

This is an old agreement. A new one is available from Farm Wise, www.lic.co.nz or phone +647-856-0700, Box 961, Hamilton or email David Hemara <dhemara@lic.co.nz>

Sharemilking arrangements allow farmers to sell their herd to the sharemilker and retire with a regular income. Those who are attached to their herd, sell it on the condition it remains on the farm, so has to be sold by the current sharemilker to the next one.

In New Zealand there are thousands who would like to dairy, but can't secure managing or sharemilking positions because they are so popular. Good references help secure one.

Most sharemilkers end up owning their own farms even at the current high price of farms.

With sharemilking terms the milk and new-born calves incomes are divided -

25% if the sharemilker only milks and tends to the stock, but pays no costs.

33% if the sharemilker milks, tends and does all farm work, but pays no costs.

45% if the sharemilker owns the stock and machinery, milks, tends, does all the work and pays fuel, electricity and animal health costs.

SHAREMILKING AGREEMENT 2002

This Agreement has been designed to record what is considered to reflect appropriate terms and conditions pertaining to the operation of sharemilking contracts where the Sharemilker provides the cows.

The document has been prepared after consultation and discussion between the following organisations:

- NZ Dairy Group of Companies
- NZ Society of Farm Management (WaikatōKing Country Branch)
- Livestock Improvement Corporation Ltd
- Waikato Sharemilking Conciliators
- Federated Farmers of New Zealand
 - : Waikato Dairy Section
 - : Waikato Sharemilkers Employers Sub-Section
 - : Waikato Sharemilkers Sub-Section

Prospective parties to an agreement such as this are urged to consider each individual clause and where necessary complete or vary such clause or add new clauses so that the intention of the parties is clearly contained in the agreement.

READ THIS DOCUMENT AND OBTAIN ADVICE AS YOUR FUTURE RELIES ON IT.

SHAREMILKING AGREEMENT

(Sharemilker providing the cows)

AGREEMENT made this day of 200X.

PARTIES

1. ("The Owner").
2. ("The Sharemilker")

BACKGROUND

(a) THE OWNER is possessed of a farm shown on the annexed plan ("the land), the legal description of which is set out hereunder:

(b) SUBJECT to the provisions of Clause 6 the SHAREMILKER shall provide as at the first day of June 20..... for the purposes of this Agreement the stock, the description of which is set out hereunder:

Mixed age cows
R1-year heifers
Other Animals

(c) THE OWNER and the sharemilker agree to carry on the business of dairy farming on a sharemilking basis (50% to the owner and 50% to the sharemilker) on the land with the stock and effects and subject to the terms and conditions appearing in this agreement. *The special conditions of clause 24 (a) (iv) are recorded as being an over riding clause in this agreement.*

Agreement

1. EXCEPT where the context demands a different construction the term:

(a) "COWS" shall mean and include all cows and heifers on the land for the purposes of this agreement.

(b) "STOCK" shall mean and include cows, bulls, pigs, horses and all other livestock excepting poultry.

(c) "THE SEASON" shall mean that period from the 1st day of June in any year until the 31st day of May in the year immediately following.

(d) "OWNER" shall include the executors, trustees and successors in title to the person named as owner in this agreement.

Status of Parties

2. THE relationship of the parties shall be deemed to be that of employer and independent contractor. The SHAREMILKER shall not be deemed by any reason of his

occupation of the land to be a tenant of the owner either in respect of the land or any building on it. This agreement shall not be deemed to create a bailment of any stock or chattels belonging to either party.

Term of Agreement

3. THIS Agreement shall come into force on the **first day of June 20....** and shall continue until the **thirty-first day of May 20.....** subject to prior determination as provided in this Agreement.

Use of the Land

4. THE OWNER shall set apart and allow to be used solely for the purpose of this Agreement the said land and neither the OWNER nor the SHAREMILKER shall during the continuance of this Agreement graze or depasture on the land any stock not subject to this Agreement.

(a) THE OWNER warrants that the area of land available for use by the sharemilker contains **hectares** approximately (including races, waterways and buildings).

(b) THE OWNER warrants that during the last three seasons prior to the commencement of this Agreement the production, milking numbers and approximate area farmed are those set out hereunder:

(c) THE SHAREMILKER shall verify, to his own satisfaction and at his own expense, the animal health status (e.g. tuberculosis, brucellosis) of the land and any stock previously depastured on it and apart from any representations made by the owner shall have no claim against the owner in respect of the animal health status of the land.

Dwelling

5. (a) (i) THE OWNER shall provide and maintain in good order and condition suitable accommodation for the sharemilker and sharemilker's employees. The cost of electricity for lighting, heating and power (including power for pumping water to the sharemilker's house) shall be the responsibility of and paid for by the SHAREMILKER. The SHAREMILKER shall keep the house accommodation and its surroundings in good and clean condition and shall be responsible for any damage resulting from the sharemilker's neglect of the house and related buildings during the sharemilker's occupation, fair wear and tear excepted. The sharemilker's house accommodation shall include a securely fenced surrounding area of sufficient size to allow appropriate privacy and for the sharemilker to grow vegetables for the sharemilker's own household consumption. The OWNER shall provide a garage or carport for the sharemilker.

(ii) The OWNER shall be entitled to enter the dwelling and surrounding area to carry out reasonable inspections PROVIDED that the owner has first sought the permission of the sharemilker who shall be obliged to give permission except in the event of the inspection being carried out at any unreasonable time or in an unreasonable manner.

(b) UPON expiration of this Agreement from whatever cause the SHAREMILKER shall leave the house and surroundings in a clean and tidy condition and should the sharemilker fail to do so, the owner shall be entitled to clean the premises and tidy the surroundings and deduct the cost of such work from any money due to the sharemilker.

Provision for Cows

6. The SHAREMILKER shall:

(a) FOR the purposes of this Agreement maintain on the land not more than ... cows nor less than ... cows to come into production between the twentieth day of July and the thirtieth day of September of the season. The cows are to be healthy and sound.

(b) SHOULD any cows fail to come into production by the first day of October in any season, remove such cows from the land and replace them with cows in production subject to clause 6(a). Should any cows dry off shortly after coming into production these shall likewise be removed from the land and replaced by cows in production subject to clause 6(a) PROVIDED HOWEVER the SHAREMILKER shall not be required to remove and replace after the first day of December in any season any cows drying off prematurely.

(c) PRIOR to the commencement of this Agreement, furnish to the owner or the owner's agent upon request particulars of the anticipated calving dates of the cows and any other details relating to the herd which may be reasonably required by the owner.

(d) RECORD, and if requested by the owner or the owner's agent, provide to the owner or the owner's agent details of

- All calvings.
- Calving dates and services of cows whether by artificial insemination or natural mating.
- Cow deaths.
- Records of culls.
- Full details of birth, rearing and calf deaths.
- Herd test results (if any).

Other Stock

7. THE SHAREMILKER:

(a) MAY supply and keep on the land bulls over the mating period during each year of this Agreement, in addition to those breeding bulls detailed as part of the farming stock to be provided by the sharemilker. The bulls shall be removed prior to the twentieth day of February in any season.

(b) MAY with the prior written approval of the owner, at the cost of the parties in the same proportions as detailed in the Background (page 1) to this Agreement, bring on and depasture on the land and retain for the reasonable domestic consumption of the owner and sharemilker in equal shares cattle beasts, PROVIDED HOWEVER that the SHAREMILKER shall at the end or sooner determination of this Agreement remove all cattle so retained and which have not been used for domestic consumption and shall pay to the owner the owner's proportionate share of the value of those cattle.

(c) MAY depasture sheep, pigs, horses, working dogs or other animals (e.g. pets) as detailed hereunder. Conversely, the OWNER may depasture sheep, pigs, horses, working dogs or other animals (e.g. pigs) as detailed hereunder.

(d) SHALL in each year rear beef animals to be shared equally between the parties.

Brucellosis, Tuberculosis and other Classified Diseases

8. (a) WHERE an animal is removed from the herd by reason of brucellosis, tuberculosis or any other classified disease the SHAREMILKER may at the sharemilker's discretion elect whether or not to replace such an animal PROVIDED THAT the number of cows in the milking herd shall not be reduced below the number specified in clause 6(a) of this Agreement.

(b) WHERE compensation is available from the MAF or any other authority for the removal of the animal the SHAREMILKER shall be entitled to all compensation paid. If any additional payment is made in respect of the loss of production then the sharemilker and the owner shall be entitled to such payment in the same proportion as detailed in the Background (page 1) to this Agreement.

Care of Stock

9. THE SHAREMILKER shall have the responsibility to ensure that the sharemilker or the sharemilker's competent deputy during the absence of the sharemilker shall:

(a) PROPERLY care for and tend all stock depasturing or being on the said land from time to time during the term of this Agreement and take reasonable precautions to keep the same on the said land.

(b) AT all proper times at the sharemilker's expense take all necessary steps to have the cows served and got in-calf.

(c) SUPERVISE each milking and shall take proper and prompt steps to treat any stock requiring attention and when necessary call in at the sharemilker's own expense a competent veterinarian.

Rearing and Selling Stock

10. (a) THE SHAREMILKER may rear and retain sufficient calves to allow for maintenance of herd numbers up to the maximum detailed hereunder

Year 1	heifer calves
Year 2	heifer calves
Year 3	heifer calves

For cow numbers between and the heifer replacement requirement will be calculated pro rata.

(b) THE SHAREMILKER may provide and bring on to the said land at the commencement of this Agreement yearling heifers for the maintenance of the dairy herd.

(c) OPTION ONE

UPON meeting the minimum acceptance standards of New Zealand Dairy Meats

calf pool all calves not selected for rearing in terms of clause 10(a) shall be sold by the sharemilker in his own name and the proceeds of such sale shall belong to the sharemilker.

OPTION TWO

(d) (i) ALL calves not selected for rearing in terms of clause 10(a) shall be sold by the sharemilker either privately or as bobby calves and the net proceeds shall belong to the owner and the sharemilker in the same proportions as are set out in the Background (page 1) to this Agreement.

(ii) IF the sharemilker sells calves to the Local Bobby Calf Pool then, subject to such calves meeting the minimum acceptance standards of New Zealand Dairy Meats calf pool, he shall account to the farm owner for the appropriate proportion of the sale price within seven days of it being received by him from the local bobby calf pool.

(iii) IF the sharemilker elects to sell calves privately he shall account to the owner for the greater of:

(a) The appropriate proportion of the price received for the privately sold calves; or

(b) The appropriate proportion of the price which the calves would have fetched if sold to the local bobby calf pool.

Payment to the owner of the appropriate proportion of the sale price (or any part of the sale price in the case of a sale by instalments) shall be made within seven days of the sharemilker receiving the sale price or any instalment of it. Payment to the owner of any additional sums payable pursuant to this subclause shall be made within seven days of the publication of the final selling price for calves to the local bobby calf pool. Notwithstanding the provisions of this subclause any sums remaining owing by the sharemilker to the owner shall be paid on the 31st day of May in any season notwithstanding that the sharemilker may not have received final payment for any calves sold.

(e) THE SHAREMILKER shall not, without the prior written approval of the owner first obtained, rear and retain on the land calves in excess of the numbers specified in clause 10(a). In the event of written approval being given by the owner, the sharemilker shall pay to the owner the proportionate share of the average market value of all calves on the land pursuant to clause 10 for all excess calves on the date of anniversary of this Agreement, or the date of disposal by way of sale of such calves or the date of removal from the land whichever event shall happen first. The average value shall be agreed by the parties and failing agreement shall be fixed by a stock agent or agents in the employ of any recognised stock firm operating in the area or district agreed upon by the parties.

(f) SUBJECT to the provisions of Clause 10(d) the proceeds of sale of any animal culled, discarded or not required for the maintenance of the herd shall be the property of the sharemilker and upon termination of this Agreement all cows, heifers, yearlings, bulls and heifer calves brought on to the land or retained in the terms of this clause shall remain the property of the sharemilker.

Control of Bloat, Facial Eczema and/or Grass Staggers

OPTION ONE

11. THE SHAREMILKER shall meet the cost of each and every spray drench or other preventative reasonably required for the prevention and control of bloat, facial eczema and grass staggers, the SHAREMILKER applying same at the sharemilker's expense and providing the necessary equipment.

It should be noted that the farm is prone to facial eczema and particular attention needs to be paid for the control of facial eczema with the use of recognised zinc additives.

OPTION TWO

The cost of each and every spray drench or other preventative reasonable required for the prevention and control of bloat, facial eczema and grass staggers shall be shared between the parties in the same proportions as detailed in the Background (page 1) to this Agreement and it shall be the responsibility of the Sharemilker to apply same at the Sharemilker's expense and to provide the necessary equipment.

Implements and Plant

12. THE SHAREMILKER shall provide and maintain at the sharemilker's own expense such implements required to ensure compliance with the terms and conditions of this Agreement, and specifically shall provide the following farm implements:

Shed Equipment

13. (a) At his own expense the sharemilker shall:

(i) Supply and install and where necessary maintain and replace all milking plant rubberware(excluding pulsator and cooler rubberware) and belting required for the efficient operation of the milking plant during the period of this Agreement.

At the end or sooner determination of this Agreement the sharemilker shall leave the rubberware and belting in good and efficient working order.

(ii) Supply all brushware and materials for cleaning the milking plant and appliances.

(iii) Supply all oil, fuel and electric power from time to time during the currency of this Agreement required for the proper and efficient use and working of the milking plant.

(iv) The SHAREMILKER to provide and regularly clean the filter cartridge on the vacuum pump oil reclaimer.

(b) THE SHAREMILKER shall at the sharemilker's own expense make good any damage to the milking plant and appliances arising from the sharemilker's neglect or failure to use the same in a proper and workmanlike manner or to maintain or cleanse it in accordance with the obligations contained in this clause.

(c) THE OWNER shall provide and maintain at the owner's expense an efficient high volume washdown plant and the SHAREMILKER shall supply and maintain at the

sharemilker's own expense the hose and nozzle for the washdown plant, and the hose and nozzle shall remain the sharemilker's property.

(d) IT shall be the responsibility of the OWNER to obtain the necessary authority from the local body to dispose of effluent, to provide the systems for the disposal of such effluent and to indemnify the sharemilker:

(i) Against any actions arising from the failure of the owner to comply with the above; and

(ii) Any losses accruing to the sharemilker in respect of the sharemilking operations.

EXCEPT to the extent that any charges, actions or losses arise out of the failure of the sharemilker to operate the system in a proper and workmanlike manner in which case the sharemilker shall indemnify the owner in respect of any charges, actions or losses accruing.

(e) WHERE a pump or spray system is used for the spraying of effluent, the SHAREMILKER shall be responsible for the power charges and for the daily shifting of the spray unit.

The SHAREMILKER shall also be responsible for the lubrication of the pump and spray unit and the OWNER shall be responsible for all other maintenance of the unit.

(f) WHERE a long ditch effluent system is used, it shall be the responsibility of the SHAREMILKER to clean out the ditches as required.

(g) WHERE an aerobic and aerobic pond system is used the SHAREMILKER shall make an annual payment of \$_____ to the owner and it shall be the OWNER'S responsibility to have the ponds cleaned as and when necessary.

(h) THE OWNER shall, subject to the provision of Clause 13(a) hereof, provide at the owner's own expense and in good order, condition and repair and appropriate to the use of the sharemilker for the purpose of this Agreement the milking shed, plant, engine, electric motors or other power plant, separator and adequate facilities for heating water and cooling milk.

(i) THE SHAREMILKER at the owner's expense shall yearly have a machine check carried out by a registered machine tester nominated by the owner. The OWNER shall, subject to Clause 13(a) hereof, put good any deficiencies on the said machine check report.

Care of Shed and Yards

14. THE SHAREMILKER shall daily clean out all sheds and yards in which the cows are milked and wash and cleanse all utensils and appliances used for the purposes of this Agreement so that the condition of the sheds and yards and appliances at all times to be in a satisfactory state of cleanliness to a standard as agreed between Owner and Sharemilker but, as a minimum, the standard of cleanliness shall be the standards laid down by the Ministry of Agriculture and Fisheries or other duly recognised authorities.

Produce and Grading Losses

15. THE SHAREMILKER shall be responsible for and make good to the owner any loss of milk or diminution in value arising by reason of non-acceptance or grading down by the Dairy Company PROVIDED THAT the sharemilker shall not be responsible for or required to make good any loss which is attributed to:

- (i) The inadequacy of the water supply for milk cooling purposes either in respect of quantity or temperature; or
- (ii) Plant failure; or
- (iii) The actions of the owner; or
- (iv) A failure by the owner to carry out the owner's obligations under this Agreement.

Care of Buildings and Other Improvements

16. (a) THE OWNER at the owner's own expense and before the commencement of this Agreement shall ensure that all buildings, other erections and permanent improvements (including fences, gates, yards, gateways, drains, hedges, tanker roads, surrounds of water troughs and the milking shed) are in such order as will enable to sharemilker to efficiently carry out his obligations pursuant to this sharemilking agreement. The SHAREMILKER shall throughout the term maintain the buildings, other erections and permanent improvements in the same order and condition as they were at the commencement of the agreement but shall not be liable for fair wear and tear arising from reasonable use or for damage by fire, earthquake, flood, storm, act of God, inevitable accident or any risk against which the owner is insured unless the insurance monies are rendered irrecoverable in consequence of any act or default of the sharemilker or the sharemilker's labour force.

NOTWITHSTANDING the provisions of this clause:

(i) The sharemilker shall only be obliged to clean drains on one occasion in each season. Drains shall be cleaned as directed by the owner and if the owner directs that drains be sprayed then the sharemilker shall meet the costs of all sprays required for that purpose. If drains have not been cleaned within the period of three years prior to the commencement of this agreement the cost of the first cleaning shall be borne by the owner.

(ii) Hedges shall be cut and trimmed as directed by the owner but in the event of the hedges not having been cut or trimmed within the period of three years preceding the commencement of this agreement the cost of the first cutting or trimming shall be borne by the owner.

(b) To the extent of the matters referred to in Schedule _____ the parties agree that the buildings, other erections and permanent improvements are not at the time of signing this Agreement in such order as will enable the sharemilker to efficiently carry out his/her obligations pursuant to this sharemilking agreement and the owner shall prior to the commencement of this Agreement carry out such work as is necessary to ensure that the buildings, other erections and permanent improvements are in such order.

If at the commencement of this Agreement such work has not been carried out

then the sharemilker shall within fourteen days of commencement give to the owner a list of the matters still to be carried out and the owner shall promptly carry out the necessary work as is necessary. The sharemilkers shall have no claim for compensation or damages arising out of circumstances or conditions not referred to in the schedule to this Agreement.

(c) Notwithstanding the provisions of clause 16(b), if at the commencement of this Agreement the buildings, other erections and permanent improvements are not in such order as will enable the sharemilker to efficiently carry out his obligations pursuant to this sharemilking agreement, then the sharemilker may give the owner a list of those matters which are required to bring those buildings, other erections and permanent improvements to the standard required by clause 16(a). The owner shall within a reasonable period carry out the work necessary to bring the buildings, other erections and permanent improvements to such standard. Any disputes as to the proper standard shall be referred to conciliation pursuant to clause 33 and then, if unresolved, to arbitration pursuant to clause 34

(d) The sharemilker shall devote a sufficient proportion of the sharemilker's time and that of the sharemilker's labour force to the carrying out of general maintenance and farm improvement work on the land. All materials for repairing tanker road, fences, filling for gateways and trough surrounds (if not available on the land), painting of buildings and general maintenance shall be supplied promptly by and at the expense of the owner, PROVIDED however that any capital improvement work shall be carried out in terms of this clause only after consultation between the owner and the sharemilker.

Weeds and Pest Control

17. (a) THE responsibility of the sharemilker for the eradication and control of capital weeds shall be confined as far as is practicable to the prevention of any increase therein compared with the position at the commencement of this Agreement or any subsequently improved position brought about at the owner's expense. Where it is considered necessary the parties shall at the commencement of this agreement consult a farm consultant, or other acceptable third party, to record the degree and extent of capital weed infestation at the specified locations, the costs of such consultation to be shared in the same proportions as detailed in the Background (page 1) to this Agreement.

(b) THE OWNER shall at the owner's expense supply all the chemicals and other materials required for weed and pest control and eradication and the sharemilker shall provide the spraying equipment and necessary labour. Subject to the provisions of sub-clauses (b) and (c) hereunder, the SHAREMILKER shall at appropriate times of the year ERADICATE all weeds of economic importance [except capital weeds as defined in Clause 17(c)] from the land.

(c) FURTHER to the provisions of sub-clause (b) above it is acknowledged by both parties that the control and eradication of the following nominated weeds (hereinafter termed "capital weeds") is a capital cost in the locations specified hereunder

WEED LOCATION

WEED LOCATION

WEED LOCATION

WEED LOCATION

Supply of Milk

18. THE SHAREMILKER shall cool milk to Dairy Company requirements and standards and convey the same to the vat provided for the purpose within the times advised by the Dairy Company from time to time. Pending collection by the Dairy Company therefrom, the SHAREMILKER shall take all reasonable precautions to prevent any contamination of that milk and shall observe at all times the directives of the Dairy Company for the safeguarding and treatment of the milk in such vats.

Water Supply

19. (a) THE OWNER shall provide for the said land at the owner's own expense a continuous and adequate supply of water for stock, cowshed and domestic purposes including all necessary motors, pumps, piping and troughs. The SHAREMILKER shall pay for all fuel, electric power, belting and oil used therein. The cost of power for pumping water to stock and sheds and for household purposes shall be borne and paid for by the SHAREMILKER.

(b) WHERE the water from the farm supply system is used for a purpose other than that covered by this Agreement the OWNER shall pay the proportion of the water pumping costs relating to the water usage for such other purposes.

An allowance needs to be made by the OWNER to the SHAREMILKER for water used for the Owner's garden watering.

(c) THE OWNER meeting the cost of materials. In the event of a serious interruption to the supply or the need for major repairs thereto, the SHAREMILKER shall immediately advise the SHAREMILKER shall at all times keep troughs clean and ball floats in efficient working order and waterlines free of leaks and generally perform all minor work on the water system, the OWNER who shall take prompt steps at the owner's own expense to remedy the same.

THE SHAREMILKER is to reimburse the OWNER for 50% of the water costs.

A SEPARATE AGREEMENT MAY BE REQUIRED IN INSTANCES WHERE WATER IS SUPPLIED FROM A COMMUNITY WATER SUPPLY.

Fertiliser

20. (a) THE OWNER warrants that during the last season prior to the commencement of this Agreement fertiliser was applied to the said land, the dates and specifications of which are set out hereunder

(b) THE OWNER warrants that where, during the three seasons prior to the commencement of this Agreement, soil tests were carried out on the said land, the dates and results of such tests are set out hereunder

(c) THE OWNER shall at the owner's expense supply and transport to the said land in each year of this Agreement sufficient fertiliser and lime to topdress the grassed areas of the said land being not less than ___ tonnes of superphosphate, exclusive of lime, such fertiliser to be spread as and when directed by the owner or the owner's agent. The cost of spreading such fertiliser and lime if done by independent contractor shall be paid by the SHAREMILKER.

(d) WHERE, after discussion between the parties, nitrogenous fertiliser is to be applied to boost seasonal pasture growth all costs of purchase and delivery shall be shared for in the same proportion as detailed in the Background (page 1) to this Agreement. The cost of spreading such fertiliser, if done by independent contractor, shall be shared in the same proportions as detailed in the Background (page 1) to this Agreement.

(e) WHERE nitrogenous fertiliser is to be applied as a soil nutrient all costs of purchase and delivery shall be paid by the OWNER.

Supplementary Crops, Harvesting and Grazing Off

21. (a) SUBJECT to consultation between the parties and determination by the owner the cost of seeds, sprays and fertiliser for supplementary crops required for the purposes of this Agreement shall be borne by the OWNER and the SHAREMILKER in the same proportions as detailed in the Background (page 1) to this Agreement but all work in connection with the cultivation and sowing of these crops shall be done by the SHAREMILKER, PROVIDED HOWEVER, nothing herein shall require the sharemilker to clear at the sharemilker's own expense or with the sharemilker's labour virgin land. Should the cultivated areas upon utilisation of the crops be required by the owner to be re-sown in grass during the term of this Agreement the OWNER shall provide at the owner's own expense all grass seed and fertiliser required but all work in connection with such sowings shall be done by the SHAREMILKER.

(b) (i) THE OWNER warrants that the supplementary feed made, purchased and sold during the last season prior to the commencement of this Agreement is as set out hereunder:

(ii) HAVING regard to the extent of autumn-saved pasture, should there be insufficient hay or silage on the land at the commencement of this Agreement for the reasonable requirements of the stock during the winter and early spring immediately following, the OWNER will provide promptly at the owner's own expense the additional supplementary feed required.

(c) THE SHAREMILKER shall in each year at the sharemilker's own expense (excepting in respect of fencing materials) including the employment of such contractors or labour as shall be necessary, cut, cart and completely harvest all surplus feed and stack it in hay barns on the land to the extent barn accommodation is available, any balance shall be efficiently stacked in properly fenced stacks. Silage shall be efficiently stacked, fenced and covered. The SHAREMILKER shall meet the cost of any hay or silage covers required. Until used, hay and silage shall be the sole property of the owner.

(d) THE OWNER shall at the owner's own expense keep insured against loss or damage by fire all baled and stacked hay for the full replacement value thereof and in the event of

loss or damage of hay by fire all monies received by virtue of such policy of insurance shall be expended promptly in replacing the destroyed hay with hay of similar quality.

(e) AT the date of termination of this Agreement there shall be the following supplementary feed left on hand:

(i) **Hay** (expressed as number of bales or kilograms of dry matter)bale equivalents

AND/OR

(ii) **Silage** (expressed as bale equivalents, area of silage or kilograms of dry matter)bales equivalent

AND/OR

(iii) **Grass Cover** (expressed as area of land shut as at or average cover of dry matter per hectare)

AND/OR

Other:

For the purposes of this Agreement one bale of hay shall be deemed to be equivalent to 15 kilograms of dry matter and one cubic metre of silage shall be deemed to be equivalent to 10 bales of hay or 150 kilograms of dry matter for grass silage and 150 kilograms of dry matter.

(f) THE costs of providing supplementary feed, whether pursuant to the obligations set out in clause 21(e) or otherwise, shall be shared by the owner and the sharemilker in the same proportion as is set out in the Background (page 1) to this Agreement.

BOTH PARTIES TO THE AGREEMENT SHOULD NOTE THAT SUCH EXPENDITURE SHOULD NOT BE INCURRED WITHOUT PRIOR CONSULTATION BETWEEN THE PARTIES.

(g) WHERE any agreement that stock be grazed off the land on a property acceptable to both parties, this agreement shall be recorded in writing and the cost and method of grazing and transport (including that of service bulls) shall be shared in the same proportions as detailed in the Background (page 1) to this Agreement.

(h) WHERE a pasture renewal programme is to be undertaken the owner shall provide all necessary sprays, seeds and fertiliser and the sharemilker shall complete all work associated with spraying, cultivation and sowing of the new pasture to the satisfaction of the owner.

Farm Management

22. THE OWNER directly or by the owner's agent shall retain the management and control of the said land and any stock depastured thereon and of all operations thereon.

It shall be at the owner's or owner's agents sole discretion to decide, after consultation with the sharemilker, all questions of policy relating to the carrying out of this Agreement and the efficient farming of the said land provided nothing herein shall make it obligatory upon the sharemilker to carry out and observe instructions by the owner detrimental to the stock and implements the property of the sharemilker. PROVIDED ALWAYS in the absence of any provision to the contrary provided herein for the purposes of Section (2) sub-section (1) of the Co-operative Dairy Companies Act 1949 insofar as it relates to the definition of "supplying shareholder" the stock shall be deemed to be subject to the control of the owner. To the intent that the payments and emoluments arising and payable under this Agreement from the use of the said land and the stock shall be as great as possible the SHAREMILKER, **in the absence of directions or instructions from the owner**, shall in all things observe and follow recognised farming practices.

Labour

23. (a) THE SHAREMILKER shall devote his labour and that of his employees to the efficient carrying out of this Agreement and in the sharemilker's absence (or where the sharemilker is unable by reason of sickness to perform his duties), he shall arrange at his own expense for a competent person to perform such duties.

(b) IF it is agreed between the parties that the sharemilker shall at any time be engaged in other employment then such agreement shall be recorded in writing and shall form part of this Agreement.

(c) THE SHAREMILKER, in addition to the sharemilker's own labour, shall employ and keep employed as a minimum labour force throughout the period of this Agreementplus any other such labour, be it permanent, casual or contract as may be required to ensure compliance with the terms and conditions of this Agreement, PROVIDED HOWEVER that any failure to employ such minimum labour force shall not in itself be deemed a default under this Agreement unless such failure continues for a period of one month or exceeds in the aggregate two months in any season.

Milk Cheques and Right of Set-Off

24. (a) (i) THE OWNER shall at the commencement of this Agreement lodge with the responsible Dairy Company an automatic payment authority to a bank nominated by the sharemilker directing payment to the sharemilker on the 20th of each month without any deduction whatsoever, subject to the provisions of Clause 15 of this Agreement, _____ percent (___%) of the income to the sharemilker in respect to the milk, the subject matter of this agreement, supplied by the sharemilker during the previous month.

Such payment shall be supported by copies of documentation from the Dairy

and
directly
Company shall
shall enable

Company on which shall be full particulars as to volumes, weights, tests
money values, which the owner shall request the Dairy Company to mail
to the sharemilker. The production of this Agreement to the Dairy
be sufficient authority for it to give the sharemilker such particulars as
the sharemilker to verify such payment information.

(ii) IN addition the SHAREMILKER shall be entitled to receive by automatic payment, direct credit, cheque or otherwise the same proportion as detailed in Clause 24(a)(i) above of any deferred payments made by the Dairy Company including any retrospective payments (which shall be shared in the same proportion between the owner and the sharemilker) made in respect of the milk supplied in terms of this Agreement, excepting however, any credits paid by the Dairy Company as a return on shares held by the owner in the Dairy Company. PROVIDED ALWAYS should the owner be called upon to refund to the Dairy Company any over-credits made by it the SHAREMILKER shall refund to the owner his/her proportionate part.

(iii) WHERE any other avenues of sale of milk are used any proceeds therefrom shall be shared in the same proportion between the owner and the sharemilker.

(iv) IN the event that there is any change to the method by which any payments are calculated and paid by the Dairy Company to the owner for milk supplied, including the issuing of shares and the payment of dividends for milk supply being supplied at the commencement of this agreement, the method by which the sharemilker's share of income is paid to the sharemilker shall be revised by agreement between the parties and failing agreement pursuant to the conciliation and, if necessary, arbitration procedures provided in clauses 33 and 34 hereof.

(b) NOTWITHSTANDING the provisions set out in the proceeding provisions of this clause and without prejudice to the provisions of clause 29 hereof, the OWNER may:

(i) Off-set and deduct from any payment due or to become due to the sharemilker
due by
failure of
notice,
being that
be

under this Agreement any moneys or any part thereof which may then be
the sharemilker to the owner under this Agreement consequent upon the
the sharemilker to remedy each and every default in respect of which
pursuant to the provisions of clause 29 hereof, has been served on the
sharemilker by the owner, with the amount of such off-set or deduction
amount which, in the opinion of the owner, shall be reasonably required to
expended to make good any such default.

(ii) Off-set and deduct from any payment due or to become due to the sharemilker under this Agreement any moneys or any part thereof which may then be due by the sharemilker to the owner under this Agreement.

IN the event that such off-set or deduction is made the owner shall, not later than seven days prior to the making of such off-set or deduction, furnish and deliver to the sharemilker a Statement of Account as to the manner in which the sum to be deducted has been determined.

PROVIDED ALWAYS that where the owner offsets money under the provisions of this clause, the OWNER will instruct the Dairy Company to pay such money to the owner's solicitor's trust account to be held by the solicitor on trust on interest-bearing deposit.

THIS clause shall be deemed to be an irrevocable order to the owner's solicitor, in consideration for the owner being able to offset such monies held, to pay the money out, along with the interest thereon, in accordance with written instructions from the parties or an arbitration award.

THE provisions of this clause shall not be a bar to the sharemilker subsequently claiming, by means of reference to arbitration, that the action of the owner in making a deduction has been unjustified and without sufficient cause and in the event of the sharemilker succeeding on any claim for reimbursement then in that event, the sharemilker shall be entitled to additional interest as determined by the arbitration award.

THE production of this agreement by either party to the Dairy Company shall, where necessary, be sufficient instruction for the Dairy Company to pay any monies deducted pursuant to the provisions of this Clause to the owner's solicitor's trust account as set out herein.

Assignment of Rights

25. (a) THE SHAREMILKER shall not assign any of his rights, privileges or benefits under this Agreement without the prior consent in writing of the owner.

(b) WHERE the OWNER disposes of the said land or any portion thereof by sale, lease or otherwise the owner shall ensure that any such disposal will be conditional on the sharemilker having the option as to whether or not this agreement shall continue with the person or persons who purchase, lease or otherwise obtain an interest in the land disposed of.

Recovery of Amounts Due

26. (a) IN the event of monies being due to the sharemilker by the owner under this Agreement an itemised and costed account shall be presented to the owner. The OWNER shall settle this account within one calendar month of receipt or pay a penalty interest of 3% per month until such time as this money is paid.

(b) WHERE costs and proceeds are to be shared between the parties, the parties shall use their best endeavours to have any account covering such costs or proceeds appropriately apportioned between the parties at the time that such cost is incurred or proceeds received.

Death of Party

27. (a) WHERE this Agreement is with the sole sharemilker, in the event of the death of the sharemilker during the period of this Agreement, this Agreement shall terminate as from such death, in which case the personal representatives of the estate of the sharemilker shall be entitled to all money due to the sharemilker pursuant to the provisions of Clause 25 hereof, at the time of the sharemilker's death including deferred or final payments, but subject to adjustment in respect of any other matters of income or outgoings or both arising under the terms of this Agreement.

(b) Where this Agreement is with a sharemilking partnership, in the event of the death of one of the partners during the period of this Agreement, the remaining partner or partners shall have the option of terminating this Agreement immediately, or at the conclusion of the season, and the owner shall have the option of determining this Agreement upon expiration of one month from the date of the death of the sharemilker.

In either case, the personal representatives of the estate of the deceased sharemilker and the remaining partner or partners shall be entitled to all money due pursuant to Clause 25 hereof to the partnership at the time of the conclusion of this Agreement, including deferred or final payments up to the date of the conclusion of this Agreement but subject to adjustment in respect of any other matters of income or outgoings or both arising under the terms of this Agreement.

(c) In the event of the death of the owner this Agreement shall terminate in the season of such death or in the next succeeding season as the case may be upon the month provided in Clause 3 of this agreement for the termination hereof.

Prior Termination of this Agreement

28. If either party defaults in the observance or performances of any terms and conditions expressed or implied in this agreement:

(a) The other party shall give written notice requiring the defaulting party to remedy or redress such default within 14 days of the service of such notice.

(b) If such default is not remedied or redressed within the 14-day period referred to in subparagraph (a) the non-defaulting party may forthwith or at any time thereafter give written notice cancelling this contract.

(c) CANCELLATION shall have effect subject to:

(i) acceptance by the defaulting party that this contract has been cancelled; or

(ii) the parties agreeing that this contract has been cancelled following conciliation pursuant to paragraph 33; or

(iii) an arbitration award pursuant to paragraph 34 confirming that this contract has been cancelled.

Cancellation shall entitle the sharemilker only to receipts and deferred payments actually to him as at the termination but shall be without prejudice to the right of the owner or the

sharemilker to claim damages for the non-performance by the other party of any obligation expressed or implied in this agreement and is also without prejudice to any other rights of such party under this agreement.

Notice of Repair

29. THE OWNER shall advise the sharemilker in writing not later than three months before the end of this Agreement as to what work needs doing to meet the terms and conditions of this Agreement. This will not exonerate the sharemilker from carrying out normal maintenance work until the end of this Agreement, even if notice of repair has not been served upon the sharemilker by the owner in respect of this maintenance work.

Sharemilker to Permit Inspections

30. THE SHAREMILKER acknowledges that the owner is required to observe and perform obligations from time to time imposed by the relevant statutes and/or regulations thereunder and/or by the rules and by-laws of the Dairy Company. The SHAREMILKER shall observe and discharge such obligations as shall be the sharemilker's responsibility in terms of the foregoing clauses of this Agreement and shall at all reasonable and proper times permit authorised inspectors to enter upon the premises in the performance of their duties.

Time Limit on Claims

31. NO action shall be sustainable by either party against the other in respect of any breach of contract or failure to observe and perform any of the conditions hereunder unless notice in writing giving reasonable information of the circumstances upon which the proposed claim or counter-claim will be based and an estimate of the claims or quantum of the damages is served upon the other party within 28 days of the close of the season in which such claims arose PROVIDED HOWEVER that in the event of a notice of claim being given by either party, the other party shall have 20 days from the date of the said claim was made known to them within which they may make a cross or counter-claim.

PROVIDED FURTHER that the provisions of this clause shall not be a bar to any action by either party against the other in respect of any sums due and owing in terms of clause 25 hereof or by way of indemnity arising from or through actions by third parties.

Matters Not Provided For

32. SHOULD this Agreement be silent on any matters or things becoming in dispute between the parties then such matters or things shall be determined in accordance with the custom prevailing in the district and failing any such custom then such matters or things shall be determined in accordance with equity and good conscience.

Conciliation

33. (a) IN the event of any dispute or difference arising between the owner and the sharemilker as to any matter arising out of this Agreement the parties may within seven days of such an event refer the dispute or difference to a conciliator appointed by the parties.

If the parties are unable to agree on such a person then the dispute or difference shall be referred to a conciliator nominated by the Chairman of the Province of Federated Farmers of New Zealand Inc. to appoint a conciliator and the dispute or difference shall be referred to the conciliator so appointed.

(b) THE conciliator shall forthwith assist the parties in an independent and impartial manner to reconcile their views on the dispute or difference to reach an amicable settlement or solution. If they are unable to reach such an agreement or solution the conciliator may formulate the terms of his determination or proposal for settlement or solution. Such determination or proposal shall be binding on both parties unless within three days one party notifies the other that it rejects the conciliator's determination or proposal.

(c) THE conciliation procedure shall be deemed to have terminated:

(i) By the signing of a settlement agreement by the parties; or

(ii) By a written declaration of one party to the other and o the conciliator that
the
conciliation is terminated; or

(iii) By a written declaration by the conciliator to the parties that further efforts
at
conciliation are no longer justified; or

(iv) By the parties not objecting to the conciliator's determination or proposal
within
five days.

(d) THE owner and the sharemilker shall each bear their own costs of the conciliation and shall each pay half the costs of the conciliator.

(e) IF the dispute is not resolved by agreement within 21 days of the first written notice from one party to the other of such dispute, the parties' dispute shall be and is hereby submitted to arbitration.

(f) ALL discussions in the conciliation process shall be without prejudice and shall not be referred to in any subsequent proceedings of any kind.

(g) THE conciliator shall not act as arbitrator, witness, counsel, adviser or representative of any party in any subsequent arbitration or judicial proceedings in respect of any dispute that has been the subject of the conciliation procedure where he has been the conciliator.

Arbitration

34. IF any dispute or difference is not resolved by agreement in terms of Clause 33 hereof the parties' dispute shall be and is hereby submitted to arbitration before a sole arbitrator to be appointed by nominee and otherwise pursuant to the Arbitration Act 1908 or any legislation enacted in substitution. The arbitrator shall not be a person who has participated in any informal dispute resolution procedure in respect of the dispute. The arbitrator so appointed shall proceed with maximum expedition to deliver an award within two months of his/her appointment, the parties agreeing to cooperate fully.

The arbitrator's award shall be final and binding and the parties waive any right to appeal against the award or seek judicial review of it in any Court.

Service of Notices

35. ANY notice to be given to the owner or the sharemilker shall be deemed sufficiently served if:

- (a) Sent by registered post to the addressee’s last known address in New Zealand; or
- (b) In the case of a company or other body corporate sent to its registered office; or
- (c) Handed to the addressee.

Any notice posted shall be deemed to have been served on a day two days after the day of posting.

Other Clauses

36. AS WITNESS the hands of the parties hereto:

SIGNED by the Owner

In the presence of

NAME OF WITNESSSignature:.....
.....

Address

Occupation

SIGNED by the Sharemilker

In the presence of

NAME OF WITNESS

Signature

Address

Occupation: