

CAPRINE AGISTMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____ by and between Everyday Acres (Agister) and _____(Owner).

Recitals

Agister possesses dairy facilities at 2787 James Road, Granville, OH 43023 (the “Dairy Facilities”), for the holding, caring for, and handling and milking of dairy goats.

Owner is an end consumer with the following contact information: mailing address - _____;
email address - _____; and
phone number - _____.

Owner has an undivided interest in a herd of two (2) dairy goats (the “Herd”) and desires to board the goats constituting Owner’s undivided interest in the Herd at the Dairy Facilities.

Agister has agreed to provide care and boarding for the Herd at the Dairy Facilities and Owner has agreed to pay a boarding fee of \$40.00 (Forty Dollars) per month, per share for the care and boarding of the Herd, such fee being payable to Agister according to the terms of this Agreement.

NOW, THEREFORE, it is agreed as follows:

1. Definitions. In addition to other terms defined in this Agreement, for purposes of this Agreement, the words:
 - A. “Agister” shall mean Everyday Acres, who will pasture and control the Herd at the Dairy Facilities; feed, maintain and care for the Herd; milk the Herd; and prepare the production of the Herd for pick up by Herd Owners or their agents.
 - B. “Agistment” shall mean pasturing and controlling the Herd at the Dairy Facilities; feeding, maintaining and caring for the Herd; milking the Herd and preparing the production from the Herd for pick up by Herd Owners or their agents.
 - C. “Herd” means the dairy goats referred to in the Recital above, augmented annually by any increases (male as well as female) and replacements, and diminished annually by any decreases.
 - D. “Herd Agreements” shall mean collectively this Agreement and all of the other substantially similar agreements signed by the owners of the remaining undivided interests in the Herd.

- E. "Owner" shall mean the person who possesses an undivided interest in the Herd.
- F. "Herd Owners" shall mean collectively all the owners of undivided interests in the Herd.
- G. "Percentage Interest" shall mean the undivided percentage interest of Owner in the Herd determined by dividing the total number of the Owner'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 separate writing titled Caprine Bill of Sale, Owner has purchased _____ share(s) out of 3 (three) total shares in the Herd.

3. Boarding Fees.

A. For boarding his/her undivided interest in the Herd, Owner shall pay to Agister a monthly boarding fee of \$40.00 (Forty Dollars) per month, per share, owned by Owner. The first month's boarding fee is to be paid with the execution of this Agreement. Thereafter, the boarding fee shall be paid by Owner to Agister, by the end of the first calendar week of each month. Owner shall pay Agister the boarding fee for the month regardless of whether or not milk is produced by the Herd or received by the Owner. The date that milk is picked up will be set by the Agister based on availability of milk and may be subject to change based on supply. The parties agree that the amount of the boarding fee is a fair and reasonable charge for the services and supplies to be provided by Agister to Owner under this Agreement. Payment under this **Section** may be made by cash, check, credit card, PayPal, or Venmo.

B. Agister may, at his discretion, increase the boarding fee up to two times per year to cover any increased expense of boarding and caring for the Herd.

4. Distribution of Milk.

A. Owner shall be entitled to receive a percentage of the weekly milk production equal to Owner's Percentage Interest in the Herd. However, the milk available to Owner may increase or decrease each week based on the Herd's milk supply.

B. Owner shall pick up milk on the days scheduled by Agister. If Owner does not pick up milk on the scheduled date, Agister may dispense with milk as permitted by law.

C. Agister shall provide clean plastic disposable jugs at each milk distribution or Owner may bring clean glass jars and lids at each milk distribution.

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

- A. To board the Herd at the Dairy Facilities and to provide any other reasonable services required by this Agreement or requested by the Herd Owners;
- B. To maintain and care for the Herd using sound practices in accordance with the herd health protocols specified in **Exhibit A** attached hereto;
- 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 (except extraordinary veterinary expenses) for maintaining and caring for the Herd as required above, however, all tests conducted in accordance with the herd health protocols shall be paid *pro rata* by Owner on a percentage ownership basis; and
- E. To provide reports to Owner as shall be appropriate to apprise Owner of the condition of the Herd and any other information that will be useful to Owner regarding the health and performance of the Herd.

6. Special Services. Should Agister determine that special services are reasonably necessary, or should Owner request Agister to perform any special services beyond the boarding required under this Agreement, Agister and Owner shall agree as to the amount of charges, if any, in addition to the monthly boarding fee, to be paid by Owner to Agister for the special services.

7. Ohio state law expressly prohibits the sales of raw milk to the ultimate consumer except a raw milk retailer who, prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to the ultimate consumers. Owner expressly agrees not to sell any of the milk for which it receives a distribution.

8. Lien for Charges; Enforcement.

A. Owner shall timely pay the boarding charges and other charges contemplated by this Agreement. Agister shall have, and Owner hereby grants to Agister, a lien and security interest in Owner's undivided interest of the Herd for all unpaid charges that this Agreement obligates Owner to pay.

B. Owner agrees that in the event the payments for which Owner is liable are not paid within the time provided herein or otherwise agreed between Agister and Owner, Agister may dispose of Owner's interest in the Herd for any and all unpaid charges at public or private sale, with or without public notice, ten (10) days after having notified Owner in writing of Agister's intent to act, and apply the net proceeds, if any, to Owner's debt. In the alternative, Agister may acquire Owner's interest in the Herd in satisfaction of the debt.

9. Ownership; Transfer.

A. Owner specifically represents and warrants to Agister that Owner has acquired his/her interest in the Herd for Owner's own use and benefit and/or the use and benefit of Owner's family.

B. Owner shall at no time and under no circumstance sell or exchange any of Owner's interest in the milk produced by the Herd to any third party except that Owner's share of milk production may be used or consumed for Owner's own use and/or the use and benefit of Owner's family. 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, the Court is requested to make the transfer or assignment subject to the terms of the Herd Agreement.

10. 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) or the Food and Drug Administration (FDA).

Owner agrees that Owner will educate Owner's family members about the risks associated with the consumption of raw milk and with the improper storage of raw milk and releases Agister from any responsibility for education of Owner's family members.

B. Owner understands and acknowledges that there are or may be risks of harm encountered in visiting or entering Agister's premises or any other premises where the Herd is located including but not limited to visiting and/or interacting with the Herd and/or other animals that may be found in the vicinity of the Herd.

C. 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 arise out of or in any way relates to any injury, illness, death, loss or damage caused, in whole or in part, by (1) the handling or consumption of raw milk produced by the Herd, and/or (2) visiting or entering upon Agister's premises or any premises where the Herd is located.

D. In addition, Owner 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 arise out of or in any way relates to any injury, illness, death,

loss or damage to the Herd caused, in whole or in part, by the care and/or boarding of the Herd by Agister.

11. Indemnification.

A. Owner shall indemnify and defend Agister and all other Herd Owners and shall hold harmless Agister and all other Herd Owners against any and all demands, claims, suits, actions, causes of action, etc. for any injury, illness, death, loss 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.

B. Owner shall also indemnify, defend, and hold harmless Agister's agents, employees, representatives, principals, lessors, lessees, vendors, contractors, subcontractors, etc. against any and all demands, claims, suits, actions, causes of action, etc. for any injury, illness, death, loss 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.

C. Agister shall indemnify, defend and hold harmless Herd Owners for any loss, death, injury, damage, liability or expense caused by any animal in the Herd, in which Owner has an interest, to the person or property of any third parties.

12. Claims. In the event that either party to this Agreement 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 (other than a claim of nonpayment as contemplated by **Section 8** of this Agreement), the party asserting claim shall, within sixty (60) days of learning of the circumstances giving rise to the claim, reduce it to writing (stating the nature of the claim and amount of relief sought) and serve it on the other party. Any claim for liability under this Agreement not made in compliance with this **Section** is waived.

13. Effective Date and Duration. This Agreement shall be effective upon execution and shall continue in effect until terminated by either Agister or Owner pursuant to this **Section**.

14. Termination. This Agreement may be terminated by the Agister at any time deemed necessary due to changes in farm conditions. Owner may terminate this Agreement with thirty (30) days prior written notice which shall expressly state the date that the termination is effective. Notice may be given in person or by certified mail to the address of each party provided in this Agreement.

15. Date and Duration. This Agreement shall be effective upon execution and shall continue in effect until terminated by either Agister or Owner pursuant to **Section 14** hereof.

16. Force Majeure. Notwithstanding anything to the contrary in this Agreement, neither Agister nor Owner shall 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, government regulations, public emergency or necessity; legal restrictions; labor disputes and actions related thereto; riot, war, or insurrection; and windstorms, rainstorms, snowstorms, floods or other acts of God.

17. Contra Proferentem. Each and every provision of this Agreement shall be construed as though parties participated equally in the drafting of same, and any rule of construction that a document be construed against the drafting party, including without limitation the doctrine commonly known as contra proferentem, shall not be applicable to this Agreement.

18. Miscellaneous.

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

B. Governing Law. This Agreement is being executed and delivered in the State of Ohio and shall be construed in accordance with and governed by the laws of such state.

C. Severability. If, for any reason, any provision or provisions of this Agreement are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation or affect those portions of this Agreement which are valid.

D. Notice. Any notice required by this Agreement shall be in writing and served by either registered mail (return receipt requested) to the recipient's address shown on this Agreement or contained in Agister's business records or by RMail. Receipt shall be effective as of the day after mailing or as of the date of sending by RMail.

E. 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.

