

Caprine Sale and Agistment Agreement

THIS AGREEMENT, made this _____ day of _____, _____, by and between Sken:nen Ken'hak (Peace Forever) Educational Farm (Seller and Agister) and _____ (Buyer).

Recitals

Seller is the owner of a herd of dairy goats (caprines) consisting of seven (7) goats, (the "Herd") and possesses dairy facilities at 1627 Calle Josefita, Santa Cruz, NM, (the "Dairy Facilities") for the holding, caring for, and handling and milking of dairy goats.

Buyer desires to buy an interest in the Herd and to board the goats constituting Buyer's interest in the Herd at the Dairy Facilities.

Seller has agreed to divide the ownership of the Herd into shares of an undivided interest in the Herd (i.e., "shares") and to sell the same at the price of twenty-five dollars (\$25.00) per share, and to provide care and boarding for the Herd at the Dairy Facilities for a price of twenty-five dollars (\$25.00) per month per share, and Buyer (together with the owners of all the undivided interests in the Herd, each of whom is entering into this or a similar agreement with Seller) desires to board goats constituting Buyer's interest in the Herd with Seller, as an agister ("Agister"), and to have Agister pasture, care for, and milk the goats in the Herd.

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 the person (here, also the Seller) 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 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.

D. "Owner" shall mean the person identified as "Buyer" in this Agreement.

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

F. "Percentage Interest" shall mean the undivided percentage interest of Buyer (or another person) in the Herd determined by dividing the total number of the Buyer's (or other person's) shares in the Herd by the total number of shares authorized in the Recitals above.

2. Sale/Purchase of Shares

Seller does hereby bargain and sell and by these presents does grant and convey to Buyer, his/her personal representatives, successors and permitted assigns, an undivided interest of _____ share(s) in the Herd.

TO HAVE AND TO HOLD the same unto Buyer, his/her personal representatives, successors and permitted assigns. Seller covenants to and agrees with Buyer, his/her personal representatives, successors and permitted assigns, to WARRANT AND DEFEND the sale of the undivided interest in the Herd against all and every person or persons whomever.

In consideration for the sale, Buyer agrees to pay Seller the sum of twentyfive dollars (\$25.00) due at the time each share is transferred to Buyer.

3. Boarding Fees

For boarding his/her undivided interest in the Herd, Owner shall pay to Agister a monthly boarding fee of twentyfive dollars (\$25.00) 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, in advance, on or before the first day of each month during the time this Agreement is in effect. The parties agree that the amount of the boarding fee is a fair and reasonable charge for the services, bottles and supplies to be provided by Agister to Buyer under this Agreement.

4. Shares of Milk and Other Proceeds

Owner shall be entitled to receive the production from Owner's shares. The percentage of production attributable to Owner's shares shall be equal to Owner's Percentage Interest in the Herd.

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 generally accepted health standards and operating standards applicable to the care of female caprines 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 goats as shall be necessary to maintain the health and productive capacity of the Herd;

D. To pay all expenses for maintaining and caring for the Herd as required above, except as provided in Paragraph 6 below.

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. No Sales of Milk

Agister and Owner acknowledge that the unlicensed sale of raw milk is prohibited by the State of New Mexico. Under no circumstances shall either Agister or Owner 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 New Mexico. Agister and Owner each agrees to indemnify and hold the other harmless for any liability, loss, damage, expense or penalties that are incurred by the other because of a breach of the provisions of this Section by the indemnifying party.

8. Lien for Charges; Enforcement

A. Owner shall timely pay the boarding charges and other charges contemplated by this Agreement. Seller/Agister shall have, and Owner hereby grants to Seller/Agister, a lien and security interest in Owner's undivided interest of the Herd for all unpaid purchase price, boarding and other 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 Seller/Agister and Owner, Seller/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 Seller/Agister's intent to act, and apply the net proceeds, if any, to Owner's debt. In the alternative, Seller/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.

B. Owner shall not transfer or assign any of Owner's rights or interest in the Herd or under this Agreement without the prior written consent of Agister, which consent shall not be unreasonably withheld, and without the transferee or assignee having entered into a herd transfer agreement containing that consent and covering the interest being transferred or assigned. Owner shall at no time and under no circumstance sell or exchange any of Owner's interest in the milk production from the Herd and shall at all times use the Owner's share of milk production for Owner'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, the Court is requested to make the transfer or assignment subject to the terms of a Herd Transfer Agreement.

10. Liability

A. Agister shall not be liable to Owner for any loss of or damage to the Herd or for anything resulting from the boarding of the Herd by Agister.

B. Agister shall not be liable to Owner for any sickness, death, loss or damage from the handling or consumption of raw milk produced by the Herd.

C. Agister shall not be liable to Owner for any sickness, death, loss or damage suffered while on Agister's premises.

11. 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 9 of this Agreement), the party asserting claim shall, within one hundred eighty (180) 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 Paragraph 11 is waived.

12. Arbitration of Disputes

All disputes, claims, and questions regarding the rights and obligations of the parties under the terms of this Agreement (other than a claim of nonpayment as contemplated by Section 9 of this Agreement) are subject to arbitration. Either party may serve on the other a written demand for arbitration within one hundred eighty (180) days after the dispute first arises. Any demand for arbitration of a claim served in compliance with Paragraph 11 above shall be contained within and served with the written claim. The arbitration shall be conducted by three arbitrators (one appointed by Seller/Agister, one by Owner, 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 its own costs in connection with the arbitration, and costs of the arbitrators shall be paid in equal amounts by the parties.

13. Effective Date and Duration

A. The caprine-sale portion of this Agreement is effective upon execution and may not thereafter be terminated by either party.

B. The agistment portion of this Agreement will become effective upon Agister's written notice to Owner (which notice may accompany this Agreement) that a majority of authorized shares in the Herd are subject to executed Herd Agreements. Notwithstanding any resultant delay in the effective date for all other aspects of the agistment portion of this Agreement, the Owner's obligations specified in Paragraph 3 above become effective upon execution. The agistment portion of this Agreement will continue until terminated by either party pursuant to Paragraph 14 hereof.

14. Termination

A. The agistment portion of this Agreement may be terminated by Agister upon ninety (90) days' written notice to Owner, so long as Agister terminates all other Herd Agreements simultaneously.

B. The agistment portion of this Agreement may be terminated by Owner (1) upon ninety (90) days' written notice to Agister by Owner and (within twenty (20) days thereof) such persons that, together with Owner, collectively own at least a majority of the authorized shares; or (2) upon Owner's and transferee's execution of a Herd Transfer Agreement to which Agister has consented.

15. Option to Purchase Owner's Shares

Upon the termination of this Agreement, Agister has the first option to purchase Buyer's shares at the price that Buyer initially paid Seller for such shares, such option to expire if not exercised by Agister within twenty (20) days of the termination date of this Agreement. Agister's failure or decision not to exercise this option shall not constitute a waiver of Agister's rights to exercise the same option in other Herd Agreements or Herd Transfer Agreements.

16. Upon Termination of Agreement

Unless Agister acquires the Herd, the Herd Owners shall be responsible for removing the Herd from the Dairy Facilities. Buyer will be responsible for payment of continued boarding fees and other charges until the goats are so removed from the premises, sold at public sale, or sold pursuant to a Herd Transfer Agreement.

17. 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, an illness in the Herd not caused by a breach of Agister's duties under this Agreement and which Agister has promptly taken steps to have treated or corrected; death of goats in the Herd which does not result from a breach by Agister of its duties under this Agreement; 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.

18. 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 New Mexico and shall be construed in accordance with and governed by the laws of such state.

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

D. 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.

E. 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.

F. Waiver. No assent or waiver, expressed or implied, to any breach of any one or more of the covenants or agreements hereof shall be deemed or taken to be a waiver of any succeeding breach.

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

H. 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.

Seller/Agister

Buyer/Owner