

BRITISH COLUMBIA MILK MARKETING BOARD

CONSOLIDATED ORDER OF OCTOBER 1, 2009

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PART I - INTRODUCTORY

Purpose of Order

1. The British Columbia Milk Marketing Board (the "Board") has approved this Consolidated Order (the "Consolidated Order") for the purpose of promoting, controlling and regulating the production, transportation, packing, storing and marketing of milk, fluid milk and manufactured milk products within British Columbia under provincial authority, and for the purpose of regulating the production for marketing, or the marketing, in interprovincial or export trade, of milk, fluid milk and manufactured milk products, under federal authority.

Authority of Board

2. The Board exercises its federal and provincial powers under the following enactments:
 - (a) *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330 (the "B.C. Act");
 - (b) *British Columbia Milk Marketing Board Regulation*, B.C. Reg. 167/94 (the "B.C. Regulation");
 - (c) *British Columbia Milk Order*, SOR/94 - 511 made under the *Agricultural Products Marketing Act*, R.S., c. A-7 (the "Federal Milk Order"); and
 - (d) *Dairy Products Marketing Regulations*, SOR/94 - 466 made under the *Canadian Dairy Commission Act*, R.S., c. C-7 (the "Federal Regulations").

Interpretation

3. In this and all orders of the Board, unless the context requires otherwise, the definitions contained in the B.C. Act and the B.C. Regulation shall have effect together with the following additional definitions:

"Adjusted Total Production Quota" means 80% of the Total Production Quota to which a Producer is entitled during a Dairy Year, divided by the number of days in that Dairy Year, multiplied by the number of days then remaining in that Dairy Year, and adjusted by the Board to account for:

- (a) Transfers of Total Production Quota;
- (b) Total Production Quota Swaps; and
- (c) allotments of new Total Production Quota or adjustments or reductions of allotted Total Production Quotas;

“**Bulkley Valley**” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 127° 18' W 54° 49' N
- Point 2: 127° 10' W 54° 52' N
- Point 3: 126° 59' W 54° 48' N
- Point 4: 126° 44' W 54° 36' N
- Point 5: 126° 55' W 54° 34' N
- Point 6: 127° 12' W 54° 42' N

“**Business Day**” means Monday, Tuesday, Wednesday, Thursday or Friday, but excludes statutory holidays or other holidays on which the offices of the Board are closed;

“**Butterfat Skim-Off**” is the amount of butterfat recovered from standardization of the butterfat content of fluid milk and used in the production of manufactured milk products;

“**Cariboo**” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 124° 10' W 54° 5' N
- Point 2: 122° 30' W 54° 0' N
- Point 3: 122° 2' W 52° 34' N
- Point 4: 122° 46' W 52° 35' N
- Point 5: 122° 56' W 53° 47' N
- Point 6: 124° 4' W 53° 54' N

“**Certified Organic Producer**” means a Producer who is the holder of a valid and subsisting certificate issued pursuant to the *Agri-Food Choice and Quality Act*, S.B.C. 2000, c. 20 and the *Organic Agricultural Products Certificate Regulation*, B.C. Reg. 200/93 or such other standard and regulation approved by the Board certifying that the Producer meets the standards applicable to organic farming;

“**Commission**” means the Canadian Dairy Commission;

“**Conventional Production**” means Qualifying Milk other than Specialty Production.

“**Dairy Farmer**” means the owner or occupier of a dairy farm, and includes the manager or other Person in charge of a dairy farm;

“**Dairy Plant**” means a premises which receives milk for processing, distribution and/or manufacturing into fluid milk products and/or manufactured milk products, and includes such premises located on a dairy farm;

“**Dairy Year**” means the 12 month period from August 1 in a calendar year to July 31 in the following calendar year;

“**Deliveries**” or “**Delivered**” includes all transfers of a regulated product:

- (a) from a Producer, through the Board, to a Vendor;
- (b) between Vendors for marketing or for processing into a regulated product; and
- (c) a transfer from a Producer to that same Producer in his or her capacity as Vendor;

“**Exempt Person**” means a Producer’s spouse, child, child and the child’s spouse.

“**Federal Fluid Quota**” means the total quantity of milk, as defined in the Federal Milk Order, authorized by that Federal Milk Order to be allotted for the production for marketing, or the marketing, in interprovincial or export trade;

“**Federal Manufactured Milk Quota**” means quota defined as federal quota in the Federal Regulations;

“**Fraser Valley**” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 123° 5' W 49° 0' N
- Point 2: 123° 7' W 49° 11' N
- Point 3: 122° 41' W 49° 16' N
- Point 4: 122° 27' W 49° 11' N
- Point 5: 121° 46' W 49° 15' N
- Point 6: 121° 44' W 49° 15' N
- Point 7: 121° 43' W 49° 11' N
- Point 8: 121° 58' W 49° 5' N
- Point 9: 122° 8' W 49° 0' N

“**Going Concern Sale**” means a sale in which the dairy farm and all Total Production Quota is sold to one purchaser, subject to the surrender provisions of this Consolidated Order;

“Kootenays” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 116° 38' W 49° 9' N
- Point 2: 116° 34' W 49° 9' N
- Point 3: 116° 29' W 49° 6' N
- Point 4: 116° 25' W 49° 6' N
- Point 5: 116° 25' W 49° 0' N
- Point 6: 116° 36' W 49° 0' N

“Licensee” means a Person who holds a Valid Licence issued by the Board or the Commission;

“Monthly Allocation of Total Production Quota” means 80% of the Total Production Quota to which a Producer is entitled during a Dairy Year, divided by the number of days in that Dairy Year, multiplied by the number of days that Qualifying Milk was Delivered by that Producer in a month, and adjusted by the Board to account for:

- (a) the number of days then remaining in that Dairy Year;
- (b) Transfers of Total Production Quota;
- (c) Total Production Quota Swaps;
- (d) allotments of new Total Production Quota or adjustments or reductions of allotted Total Production Quotas; and
- (e) production of non-Qualifying Milk;

“Okanagan” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 119° 27' W 50° 75' N
- Point 2: 118° 87' W 50° 91' N
- Point 3: 118° 85' W 50° 87' N
- Point 4: 118° 93' W 50° 83' N
- Point 5: 119° 03' W 50° 58' N
- Point 6: 118° 91' W 50° 57' N
- Point 7: 118° 82' W 50° 63' N
- Point 8: 118° 78' W 50° 60' N
- Point 9: 118° 89' W 50° 51' N
- Point 10: 119° 06' W 50° 51' N
- Point 11: 119° 08' W 50° 45' N
- Point 12: 119° 23' W 50° 30' N
- Point 13: 118° 72' W 50° 30' N
- Point 14: 118° 72' W 50° 20' N
- Point 15: 119° 27' W 50° 20' N

- Point 16: 119° 30' W 50° 35' N
- Point 17: 119° 84' W 50° 46' N
- Point 18: 119° 97' W 50° 61' N
- Point 19: 120° 17' W 50° 64' N
- Point 20: 120° 18' W 50° 67' N
- Point 21: 119° 53' W 50° 90' N
- Point 22: 119° 33' W 50° 88' N

“Peace River” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 120° 59' W 56° 18' N
- Point 2: 120° 29' W 56° 20' N
- Point 3: 119° 59' W 55° 52' N
- Point 4: 120° 0' W 55° 27' N
- Point 5: 120° 31' W 55° 45' N

“Person” means a person as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238;

“Pool Participant Producer” means a Producer operating under a Class “C” Producer Licence and a Class “C-FED” Producer Licence;

“Pool Participant Vendor” means a Vendor who is the holder of a Valid Licence, but does not include a Person who is the holder of a Class “D” Producer Vendor Licence;

“Processor” means any Person who operates a Dairy Plant and receives or utilizes milk for processing into fluid milk or manufactured milk products;

“Producer” means a Person who produces milk obtained from cows in British Columbia;

“Producer Vendor” means a Producer, who processes on a dairy farm, milk from that dairy farm into fluid milk or manufactured milk products;

“Provincial Fluid Quota” means quota as defined in the B.C. Regulation as it pertains to the fluid milk market;

“Provincial Manufactured Milk Quota” means quota as defined in the B.C. Regulation as it pertains to the manufactured milk market, and has the same meaning as provincial quota under the Federal Regulations;

“Qualifying Milk” has the meaning as defined in the *Milk Industry Act*, R.S.B.C. 1996, c. 289;

“Quota” means one, or a combination, of:

- (a) Total Production Quota;
- (b) Federal Fluid Quota;
- (c) Federal Manufactured Milk Quota;
- (d) Provincial Fluid Quota; or
- (e) Provincial Manufactured Milk Quota;

and includes a share of such Quota when allotted to Producers;

“Related Producers” mean:

- (a) a Producer that is a corporation and a Producer that has a direct or indirect interest in that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation;
- (b) any two or more Producers that carry on business in partnership, each with the other; or
- (c) any two or more Producers, if they are controlled by the same Person or group of Persons;

“Related Vendors” mean:

- (a) a Vendor that is a corporation and a Vendor that has a direct or indirect interest in that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation;
- (b) any two or more Vendors that carry on business in partnership, each with the other; or
- (c) any two or more Vendors, if they are controlled by the same Person or group of Persons;

“Remote Region” means those regions within the Province of British Columbia excluding Bulkley Valley, Cariboo, Fraser Valley, Kootenays, Okanagan, Peace River, Vancouver Island North and Vancouver Island South;

“Special Allotment” means:

- (a) a general allotment of Total Production Quota by the Board;
- (b) an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
- (c) an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2.

“Special Classes” means milk classified in sub-class 4(m) or in any of sub-classes 5(a)-(d) provided to a holder of a valid Special Milk Class Permit issued by the Commission;

“Specialty Production” means organic Qualifying Milk produced by a Certified Organic Producer.

“Total Production Quota” means:

- (a) a concurrent quantity of Provincial Fluid Quota and Federal Fluid Quota expressed in kilograms of butterfat per Dairy Year;
- (b) a concurrent quantity of Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota expressed in kilograms of butterfat per Dairy Year; or
- (c) an aggregate of (a) and (b);

and includes a share of such Total Production Quota when allotted to Producers;

“Total Production Quota Margin” means the Total Production Quota to which a Producer is entitled during a Dairy Year, less the current Adjusted Total Production Quota.

“Total Production Quota Swap” means a transaction whereby Used Total Production Quota is Transferred from one licensed Producer directly to another in consideration of the Transfer of an equivalent amount of Unused Total Production Quota, with or without additional consideration;

“Transfer” in relation to Total Production Quota means the direct or indirect, legal or equitable transfer of an interest in Total Production Quota, or the grant of an option to transfer an interest in Total Production Quota, but does not include an assignment of Total Production Quota in favour of a bona fide lender of a security interest in the Total Production Quota;

“Transferee” means the Person to whom Total Production Quota is being Transferred;

“Transferor” means the Person from whom Total Production Quota is being Transferred;

“Unused Total Production Quota” means the amount of Total Production Quota to which a Producer is entitled during a Dairy Year, less the aggregate of:

- (a) that Producer’s accumulated Monthly Allocation of Total Production Quota at the time of the latest month of that Dairy Year for which the Board has published production statistics; and
- (b) the lesser of:
 - (i) the accumulated total, for each month, of the amount by which that Producer’s actual monthly production exceeds that Producer’s Monthly Allocation of Total Production Quota at the time of the latest month of that Dairy Year for which the Board has published production statistics; or
 - (ii) that Producer’s Total Production Quota Margin;

“Used Total Production Quota” means the aggregate of:

- (a) a Producer’s accumulated Monthly Allocation of Total Production Quota at the time of the latest month of that Dairy Year for which the Board has published production statistics; and
- (b) the lesser of:
 - (i) the accumulated total, for each month, of the amount by which that Producer’s actual monthly production exceeds that Producer’s Monthly Allocation of Total Production Quota at the time of the latest month of that Dairy Year for which the Board has published production statistics; or
 - (ii) that Producer’s Total Production Quota Margin;

“Valid Licence” means a current and subsisting licence of the applicable class issued by the Board to a Person in good standing with respect to each and every requirement therefor;

“Vancouver Island North” means that part of Vancouver Island bounded by a line joining the following geographical co-ordinates:

- Point 1: 124° 48' W 49° 14' N
- Point 2: 124° 33' W 49° 23' N
- Point 3: 124° 51' W 49° 32' N
- Point 4: 124° 51' W 49° 42' N
- Point 5: 125° 5' W 49° 50' N
- Point 6: 125° 9' W 49° 48' N
- Point 7: 124° 54' W 49° 28' N
- Point 8: 124° 47' W 49° 21' N
- Point 9: 125° 0' W 49° 24' N

“Vancouver Island South” means that part of Vancouver Island bounded by a line joining the following geographical co-ordinates:

- Point 1: 124° 29' W 49° 21' N
- Point 2: 123° 50' W 49° 8' N
- Point 3: 123° 35' W 48° 47' N
- Point 4: 123° 35' W 48° 42' N
- Point 5: 123° 25' W 48° 41' N
- Point 6: 123° 20' W 48° 29' N
- Point 7: 123° 36' W 48° 28' N
- Point 8: 123° 46' W 48° 47' N
- Point 9: 124° 2' W 49° 5' N
- Point 10: 124° 29' W 49° 19' N

“Vendor” means any Processor dealing in milk or manufactured milk products by purchase or sale, and includes a Producer Vendor, but does not include a Producer as such;

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PART II - LICENSING

Requirement to Hold Licence

4. (1) No Person shall act as a Vendor, Producer or Producer Vendor unless in possession of a Valid Licence issued by the Board and no Person shall be relieved of compliance with the requirements in respect of any class of licence on the grounds that such Person is the holder of a Valid Licence of another class.
- (2) Where Persons carry on business in partnership, each with the other, a Valid Licence may be issued by the Board in the names of each of the partners and in the business name carried on by those partners, if any. Such licence is subject to cancellation upon order of the Board in the event of a change in the membership of the partnership with respect to a Person or Persons having an interest of 50% or more in the partnership.
- (3) Where a Valid Licence has been issued by the Board to a corporation, such licence is subject to cancellation upon order of the Board in the event of a change in the ownership, direct or indirect, of the majority voting shares of the corporation.

Application Process

5. Every application for a licence must be made to the Board in the required form with the required licence fee.

General Conditions

6. (1) It is a condition of issuance and maintenance of every licence that the applicant or holder complies with orders of the Board from time to time in force.
- (2) No licence may be issued by the Board unless the applicant has complied with all government requirements applicable to the applicant's operations, including the regulations made under the *Milk Industry Act*.
- (3) Licences are issued on an annual basis expiring at the end of the Dairy Year.

Licence Classes

7. The Board may issue annual licences as follows:
 - (a) Class "A" Vendor Licence and Class "A-FED" Vendor Licence to a Vendor, for each Dairy Plant operated by that Vendor which processes milk into fluid milk products and which may process milk into manufactured milk products, who:

- (i) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant;
 - (ii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*; and
 - (iii) undertakes, as a condition of issuance of the licence, to receive milk on each and every day of the week, and at such time or times as the Board may direct.
- (b) Class “B” Vendor Licence to a Vendor, for each Dairy Plant operated by that Vendor and which processes or markets only manufactured milk products for that market, who:
- (i) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant; and
 - (ii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*; and
 - (iii) undertakes, as a condition of issuance of the licence, to receive milk on each and every day of the week, and at such time or times as the Board may direct.
- (c) Class “C” Producer Licence and Class “C-FED” Producer Licence to a Producer, for each dairy farm operated by that Producer, who:
- (i) has a valid and subsisting Dairy Farm Licence issued under the *Milk Industry Act* classifying the farm as an approved dairy farm;
 - (ii) has a minimum allotment of 1,500 kilograms of Total Production Quota;
 - (iii) undertakes to sell, ship for sale and offer for sale all milk produced on the farm through the Board, and at such time or times as the Board may direct;
 - (iv) after the licence has been issued, displays that licence in the vicinity of the farm bulk milk tank and in view of the milk hose connection outlet;
 - (v) permanently installs and maintains as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production, in the event that such Producer is also the holder of a Class “A” and Class “A-FED” Vendor Licence or a Class “B” Vendor Licence;

- (vi) in the alternative to (v), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board, in the event that such Producer is also the holder of a Class "A" and Class "A-FED" Vendor Licence or a Class "B" Vendor Licence;
- (d) Class "D" Producer Vendor Licence to a Producer, for the dairy farm operated by that Producer, who:
- (i) is a current and subsisting participant in the Cottage Industry Program in full compliance with all of the requirements of that program;
 - (ii) has a valid and subsisting Dairy Farm Licence issued under the *Milk Industry Act* classifying the farm as an approved dairy farm;
 - (iii) does not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;
 - (iv) has a minimum allotment of 1,500 kilograms of Total Production Quota consisting wholly or partially of Total Production Quota allotted under the Cottage Industry Program;
 - (v) operates a Dairy Plant on that dairy farm and undertakes, as a condition of issuance of the licence, that the Dairy Plant processes only milk produced by that Producer's own cows and only into consumer-ready manufactured milk products;
 - (vi) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant;
 - (vii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*;
 - (viii) is ineligible to receive milk from another Vendor or Producer;
 - (ix) does not market fluid milk;
 - (x) permanently installs and maintains as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

- (xi) in the alternative to (x), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;
 - (xii) without the written approval of the Board, is ineligible to sell, ship for sale or offer for sale any milk produced on the farm; and
 - (xiii) does not hold any other class of licence, unless otherwise approved by the Board.
- (e) Class "E" Producer Vendor Licence to a Producer, for the dairy farm operated by that Producer, who:
- (i) has a valid and subsisting Dairy Farm Licence issued under the *Milk Industry Act* classifying the farm as an approved dairy farm;
 - (ii) does not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;
 - (iii) has a production volume that does not exceed 1,500 kilograms of butterfat per Dairy Year;
 - (iv) has situated that dairy farm in a secluded area that is not serviced by road or by ferry with vehicular access;
 - (v) operates a Dairy Plant on that dairy farm and undertakes, as a condition of issuance of the licence, that the Dairy Plant processes only milk produced by that Producer's own cows and only into consumer-ready fluid and manufactured milk products;
 - (vi) markets all consumer-ready fluid and manufactured milk products processed by that Dairy Plant at the farm gate, or otherwise to local retailers or local wholesalers situate within the aforesaid secluded area that is not serviced by road or by ferry with vehicular access;
 - (vii) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant;
 - (viii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*;
 - (ix) is ineligible to receive milk from another Vendor or Producer;

- (x) permanently installs and maintains as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;
- (xi) in the alternative to (x), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;
- (xii) without the written approval of the Board, is ineligible to sell, ship for sale or offer for sale any milk produced on the farm except in accordance with (vi); and
- (xiii) does not hold any other class of licence, unless otherwise approved by the Board.

Licence Fee

8. The annual licence fee payable to the Board for each class of licence is \$10.00 and is non-refundable.

Renewal

9. At the commencement of a Dairy Year, the Board will renew:
 - (a) every existing Producer licence without application, provided that the holder has paid the licence fee and maintained compliance with all orders of the Board; and
 - (b) Vendor licences upon receipt of the prescribed application form and licence fee and provided that the Vendor has maintained compliance with all orders of the Board.

No Transferability of Licences

10. Licences issued under this Consolidated Order are not transferable.

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PART III - ALLOTMENT AND REGISTRATION OF QUOTA

Form in Which Quota is Allotted

11. (1) All Quota allotted to a Producer shall be allotted as Total Production Quota expressed in kilograms of butterfat per Dairy Year.
- (2) Total Production Quota allotted to a Producer shall be deemed to be derived, in part, from:
 - (a) an allotment of a concurrent quantity of Provincial Fluid Quota and Federal Fluid Quota expressed in kilograms of butterfat per Dairy Year; and
 - (b) an allotment of a concurrent quantity of Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota expressed in kilograms of butterfat per Dairy Year.

General Principles of Allotment

12. (1) When Provincial Fluid Quota is allotted, an equivalent quantity of Federal Fluid Quota is allotted contemporaneously. Such Provincial Fluid Quota and Federal Fluid Quota is held for production concurrently as Total Production Quota.

Example: If 100 kilograms of Provincial Fluid Quota is allotted to a Producer, 100 kilograms of Federal Fluid Quota is allotted to that Producer contemporaneously. The 100 kilograms of Provincial Fluid Quota and the 100 kilograms of Federal Fluid Quota is held for production concurrently as 100 kilograms of Total Production Quota.

- (2) When Provincial Manufactured Milk Quota is allotted, an equivalent quantity of Federal Manufactured Milk Quota is allotted contemporaneously. Such Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota is held for production concurrently as Total Production Quota.

Example: If 100 kilograms of Provincial Manufactured Milk Quota is allotted to a Producer, 100 kilograms of Federal Manufactured Milk Quota is allotted to that Producer contemporaneously. The 100 kilograms of Provincial Manufactured Milk Quota and the 100 kilograms of Federal Manufactured Milk Quota is held for production concurrently as 100 kilograms of Total Production Quota.

Allotment of Total Production Quota

13. (1) Without the written consent of the Board, a licensed Producer shall not be permitted to hold an allotment of Total Production Quota exceeding 5.0% of the Total Production Quota allotted by the Board to all Producers. This limitation applies to all Total Production Quota allotted by the Board to a Producer including that in which a Person may have an interest by means of partnership, corporate agreement or share equity.
- (2) The Board may allot new Total Production Quota or adjust or reduce allotted Total Production Quotas to such Producers, at such time or times, in such amounts and in such a manner as may be determined by it. In the event that the Board decides to allot new Total Production Quota, it shall:
 - (a) consult with the British Columbia Milk Industry Advisory Committee and the British Columbia Specialty Production Advisory Committee;
 - (b) have regard to differences in market growth among Conventional Production and each class of Specialty Production; and
 - (c) allot such Total Production Quota only to licensed Producers who are in full compliance with this Consolidated Order, the B.C. Act, the B.C. Regulation and other relevant legislation, and on a pro rata basis according to each such Producer's share of the Total Production Quota allotted by the Board to all Producers within each class of production;
- (3) Following allotment of Total Production Quota by the Board, notice of the amount of Total Production Quota so allotted to a Producer will be provided by the Board to the Producer.
- (4) Where a Producer operates more than one dairy farm, Total Production Quota allotted to that Producer will be apportioned by the Board to each such dairy farm in accordance with subsection (2) and in proportion to the Total Production Quota then held for production with respect to each such dairy farm.

Special Allotment of Total Production Quota Under Graduated Entry Program

14. The Board may allot Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1.

Special Allotment of Total Production Quota Under Cottage Industry Program

15. The Board may allot Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2.

Registration of Total Production Quota

16. (1) Where a Producer carries on business as a sole proprietor, Total Production Quota allotted to that Producer will be registered by the Board in the name of the Producer and in the business name carried on by that Producer, if any.
- (2) Where Producers carry on business in partnership, each with the other, Total Production Quota allotted to those Producers is deemed to have been allotted in proportion to the interest of each such Producer in the control or financial growth of the partnership, and will be registered by the Board in the names of each of the partners and in the business name carried on by those partners, if any. At the time of first registration, and subsequently as required by the Board, the partners shall file with the Board a true copy of the partnership agreement showing the name of each partner and the interest that each partner has in the partnership. The partners shall further inform the Board in writing one calendar month before any change is made with respect to the interest of each partner in the partnership.
- (3) Where a Producer is a corporation, Total Production Quota allotted to that Producer is deemed to have been allotted in proportion to the interest of each individual having a direct or indirect interest in the control or financial growth of that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation, and will be registered by the Board in the name of the corporation and in the names of each of the individuals having such a direct or indirect interest in that corporation. At the time of first registration, and subsequently as required by the Board, the corporation shall file with the Board a true copy of its Certificate of Incorporation and Register of Members, together with true copies of the Certificates of Incorporation and Registers of Members for each parent corporation having a direct or indirect interest in that corporation. The corporation shall further inform the Board in writing one calendar month before any change is made with respect to the share allotment within, or structure of, the corporation.
- (4) Failure by a Producer to provide the Board with any of the documents required by the Board within the time specified by the Board shall result in the suspension of the offending Licensee's licence and Total Production Quota until the required document is filed and approved by the Board.

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PART IV - TRANSFER OF TOTAL PRODUCTION QUOTA

Limitations on Transfer of Total Production Quota

17. Total Production Quota may only be Transferred:
- (a) as Unused Total Production Quota or as Used Total Production Quota;
 - (b) for the purpose of engaging in:
 - (i) Conventional Production, where the Total Production Quota was used for that purpose prior to the date of Transfer; or
 - (ii) Specialty Production of the same class as the Total Production Quota was so used prior to the date of Transfer.
 - (c) upon application to, and with the approval of, the Board;
 - (d) through the Quota Exchange, excepting:
 - (i) Transfers to Exempt Persons;
 - (ii) Transfers which constitute a Going Concern Sale;
 - (iii) Transfers which constitute a Total Production Quota Swap;
 - (iv) deemed Transfers between partners or shareholders; or
 - (v) Transfers from a Producer to a partnership or a corporation in which the Producer is a partner or a shareholder.

Quota Exchange

18. The Quota Exchange shall be operated by the Board in accordance with this Consolidated Order and the Quota Exchange Rules set out in Schedule 3.

No Commission on Transfer

19. No commission or other remuneration shall be payable to the Board in respect to the Transfer of Total Production Quota.

Application to Transfer Total Production Quota

20. (1) Applications to Transfer Total Production Quota other than through the Quota Exchange:
 - (a) must be provided to the Board on or before 4:30 p.m. on the first Business Day of the month preceding the month in which the Transfer is to occur; and
 - (b) will be approved only on the first day of the month following receipt of the application;
- (2) The Board will not consider applications:
 - (a) for Transfer of Total Production Quota for August 1 in any year;
 - (b) for a Transfer of Total Production Quota which constitutes a Total Production Quota Swap:
 - (i) for August 1 or September 1 in any year; or
 - (ii) concerning an amount of Total Production Quota that is less than 100 kilograms; or
 - (iii) where the application, if approved, would result in a Producer having swapped in a Dairy Year an aggregate amount of Total Production Quota that exceeds 20% of that Producer's total allotment of Total Production Quota;
- (3) The Board may refuse to approve a Transfer of Total Production Quota where the Transferor or the Transferee is not in compliance with the B.C. Act, the B.C. Regulation, the *Milk Industry Act*, other relevant legislation, or orders of the Board.
- (4) The Board may impose conditions with respect to any approval of a Transfer of Total Production Quota.
- (5) The Board may suspend the approval of Transfers for a definite or indefinite period of time.

Transfer of All or Substantially All Total Production Quota

21. (1) Any Producer applying to Transfer 60% or more of the Producer's Total Production Quota in any twelve month period, or intending to leave the regulated milk industry, may be required to enter into an agreement with the Board in such form as the Board may from time to time consider appropriate.

- (2) Any Producer intending to leave the regulated milk industry shall immediately inform the Board of the date the Producer expects to cease production.

Surrender of Total Production Quota on Transfer

22. (1) Subject to subsections (3) and (6), where Total Production Quota is Transferred, the Transferor shall surrender to the Board an amount of Total Production Quota equal to the aggregate of:

(a) 5% of the amount of Total Production Quota being Transferred, where such Total Production Quota was:

- (i) allotted pursuant to a general allotment made by the Board prior to September 1, 2005; or
- (ii) allotted to the Transferor other than pursuant to a Special Allotment;

(b) 100% of the amount of Total Production Quota:

- (i) allotted within one year from the date of the proposed Transfer; and
- (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(c) 90% of the amount of Total Production Quota:

- (i) allotted within the second year preceding the date of the proposed Transfer; and
- (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or

- B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
- C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(d) 80% of the amount of Total Production Quota:

- (i) allotted within the third year preceding the date of the proposed Transfer; and
- (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(e) 70% of the amount of Total Production Quota:

- (i) allotted within the fourth year preceding the date of the proposed Transfer; and
- (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

- (f) 60% of the amount of Total Production Quota:
 - (i) allotted within the fifth year preceding the date of the proposed Transfer; and
 - (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

- (g) 50% of the amount of Total Production Quota:
 - (i) allotted within the sixth year preceding the date of the proposed Transfer; and
 - (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

- (h) 40% of the amount of Total Production Quota:
 - (i) allotted within the seventh year preceding the date of the proposed Transfer; and
 - (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or

- B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
- C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

- (i) 30% of the amount of Total Production Quota:
 - (i) allotted within the eighth year preceding the date of the proposed Transfer; and
 - (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

- (j) 20% of the amount of Total Production Quota:
 - (i) allotted within the ninth year preceding the date of the proposed Transfer; and
 - (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

- (k) 10% of the amount of Total Production Quota:
 - (i) allotted within, or prior to, the tenth year preceding the date of the proposed Transfer; and
 - (ii) allotted pursuant to:
 - A. a general allotment made by the Board on or after September 1, 2005; or
 - B. an allotment of Total Production Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or
 - C. an allotment of Total Production Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred.

- (2) For the purposes of subsection (1):
 - (a) the Total Production Quota being surrendered is deemed to be the Total Production Quota most recently allotted to the Transferor; and
 - (b) subject to paragraph (a), the Total Production Quota being Transferred is deemed to be the Total Production Quota most recently allotted to the Transferor.
- (3) When a Person who has not commenced Deliveries of Qualifying Milk Transfers Total Production Quota registered in that Person's name and allotted to the Transferor other than pursuant to a Special Allotment, such Person shall surrender to the Board an amount of Total Production Quota equivalent to 20% of the amount of Total Production Quota being Transferred.
- (4) Where the interest of a Producer in a partnership is increased, decreased or transferred, a proportionate Transfer of the Total Production Quota deemed to have been allotted to such Producer is deemed to occur.
- (5) Where the direct or indirect interest of an individual in a corporate Producer is increased, decreased or transferred, a proportionate Transfer of the Total Production Quota deemed to have been allotted to such individual is deemed to occur.

- (6) A surrender of Total Production Quota is not required where:
- (a) Total Production Quota is Transferred to an Exempt Person;
 - (b) Total Production Quota is Transferred by a Person to that Person's brother or sister in circumstances where the entirety of the Total Production Quota so Transferred is held for production by the Transferee at the same dairy farm as was operated by the Transferor immediately prior to such Transfer;
 - (c) the Transfer of Total Production Quota constitutes a Total Production Quota Swap;
 - (d) a deemed Transfer of Total Production Quota is to partners who are Exempt Persons or siblings or to shareholders who are Exempt Persons or siblings;
 - (e) two or more licensed Producers enter into an agreement of partnership and the partnership interest of each such licensed Producer is proportionate to the Total Production Quota registered in that licensed Producer's name;
 - (f) the amount of Total Production Quota deemed to have been allotted to a Producer having an interest in a partnership remains registered in that Producer's name upon dissolution of the partnership.

Application to Re-Allocate Total Production Quota

23. A Producer who operates more than one dairy farm may re-allocate the Total Production Quota apportioned by the Board to each such dairy farm only upon application to, and with the written approval of, the Board.

PART V - PRODUCTION REQUIREMENTS AND LIMITATIONS

Within Quota and Over Quota Production

24. (1) Subject to subsection (2), a Producer's actual monthly production of milk that is in excess of that Producer's Monthly Allocation of Total Production Quota, is for the purposes of determining the price for milk payable to that Producer, over quota production.
- (2) Notwithstanding subsection (1), a Producer's actual monthly production of milk that is in excess of that Producer's Monthly Allocation of Total Production Quota, shall first be attributed to that Producer's Total Production Quota Margin then remaining for the month in which that production occurs and, to the extent of the Total Production Quota Margin so used, that production is, for the purposes of determining the price for milk payable to that Producer, within quota production.
- (3) The extent to which a Producer's actual monthly production of milk constitutes within quota production or over quota production is determined monthly by the Board, having regard to:
- (a) the actual butterfat density of the milk produced, where that butterfat density is equal to or greater than 3.25%; or
 - (b) a deemed butterfat density of 3.25%, where the actual butterfat density of the milk produced is less than 3.25%;

and such determination is final. No subsequent allotment of Total Production Quota shall in any way affect that determination.

Obligation to Produce

25. (1) The Board may cancel all or any part of the Total Production Quota:
- (a) allotted to a Producer who ceases Deliveries of Qualifying Milk for more than 60 calendar days without the written consent of the Board; or
 - (b) allotted to a Person who has not commenced Deliveries of Qualifying Milk within 60 calendar days from the date that such Total Production Quota was allotted to such Person.
- (2) The Board may cancel any licence held by:
- (a) a Producer who ceases Deliveries of Qualifying Milk for more than 60 calendar days without the written consent of the Board; or

- (b) a Person to whom Quota has been allotted, who has not commenced Deliveries of Qualifying Milk within 60 calendar days from the date that such Quota was allotted to such Person.
- (3) Unless otherwise authorized in writing by the Board, a Producer using Total Production Quota for the purpose of engaging in Conventional Production must continue to use that Total Production Quota for the purpose of engaging in Conventional Production.
- (4) Unless otherwise authorized in writing by the Board, a Producer using Total Production Quota for the purpose of engaging in a class of Specialty Production must continue to use that Total Production Quota for the purpose of engaging in that class of Specialty Production.

PART VI - CLASSIFICATION OF QUALIFYING MILK

Classification by Utilization

26. All Qualifying Milk received by a Vendor through the Board is classified on the basis of utilization as follows:
- (a) Class 1(a) Qualifying Milk is milk sold by a Vendor in fresh or fluid form and includes the milk portion of any dairy product marketed to consumers through retail or food service as milk or milk beverages, partly skimmed or skimmed, whether or not treated for lactose intolerance, whether flavoured or not, with or without vitamins or minerals and all U.H.T. milk. Milk in this class is not limited to standard milk (3.25%), 2%, 1%, Eggnog, Cordials, Cultured Milk, Milk Shakes sold at retail, and reconstituted concentrated milk.
 - (b) Class 1(b) Qualifying Milk is milk sold by a Vendor in fresh or fluid form and includes (but is not limited to) the milk portion of any dairy product marketed:
 - (i) to consumers as cream in liquid form with a butterfat content not less than 5% for retail and food service and may include 6% cream, 10% cream, 18% cream, whipping cream and all U.H.T. cream; or
 - (ii) as cream with a butterfat content of 32% and higher used to make fresh baked goods which are not eligible for a Class 5 permit (A valid CDC administered class 1bii permit is required for this subclass).
 - (c) Class 1(c) new class 1(a) or 1(b) products for retail or food service as approved by the provincial authority and subject to innovation pricing discounts approved by the Western Milk Pool.
 - (d) Class 1(d) Qualifying Milk is milk and cream marketed outside the ten signatory provinces but within the Canadian boundaries, (e.g. Yukon, NWT, Nunavut and cruise ships).
 - (e) Class 2 Qualifying Milk is milk utilized in the manufacture of sour cream, yogurt cultured products, ice cream, frozen yogurt, other frozen dairy products, meal replacements, "cafeinate", soup bases, puddings and Indian Sweets.

- (f) Class 3(a) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of cheese not otherwise specified in Class 3(b), and includes (but is not limited to) mozzarella, cottage cheese, fresh curd and specialty cheese (all as defined by the Board).
- (g) Class 3(b) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of cheddar cheese, light cheddar cheese, cheese bases and mixes, cream cheese, and stirred curd.
- (h) Class 4(a) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of all types of butter, butter oil, all types of milk powder and casein, condensed milk used as an ingredient in the non-dairy food industry and all other products not elsewhere stated.
 - (i) Milk components for the manufacture of rennet casein (dry or curd), Milk Protein Concentrate (dry or liquid) or Skim Milk (dry or liquid) to be used in the manufacture of non-standardized final products in the processed cheese category or in weight/muscle gain formulations, meal replacement products, medical and sports recovery drinks and infant food formulations destined for retail sale is subject to national pricing and administration.
- (i) Class 4(b) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of concentrated milk.
- (j) Class 4(c) Qualifying Milk is milk utilized for an unclassified new product (with classification to another sub-class of Qualifying Milk to occur within twelve months of receiving Class 4(c) classification) and subject to innovative pricing discounts approved by the Western Milk Pool.
- (k) Class 4(d) Qualifying Milk is milk considered as inventory or plant losses.
- (l) Class 4(d)(i) Qualifying Milk is bulk raw milk or cream transported out of the Province of British Columbia to Alberta, Saskatchewan or Manitoba.
- (m) Class 4(m) Qualifying Milk is milk used in the manufacture of processed animal feed or otherwise used in a marginal domestic disposal market.
- (n) Class 5 Qualifying Milk is milk in the following Special Classes:
 - (i) Class 5(a) milk means the equivalent volume of milk utilized to manufacture cheese ingredients used for further processing for the domestic and export markets;
 - (ii) Class 5(b) milk means the equivalent volume of milk utilized in the manufacture of all dairy products, other than cheese, used for further processing for the domestic and export markets;

- (iii) Class 5(c) milk means the equivalent volume of milk utilized in the confectionery sector, pursuant to a valid Special Milk Class Permit issued by the Commission;
- (iv) Class 5(d) milk means the equivalent volume of milk utilized in the manufacture of dairy products for export outside Canada, pursuant to a valid Special Milk Class Permit by the Commission;

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PART VII - ALLOCATION OF MILK SUPPLY AMONG VENDORS

Traditional Allocation of MSQ

27. (1) Subject to subsections (2), (3), (4) and (5), the Board will allocate among Dairy Plants operated by licensed Vendors up to 90% of the provincial allocation of Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota (collectively, "MSQ") as traditional allocations, provided nevertheless that first priority shall be given to the demand for Class 1 Qualifying Milk, Class 2 Qualifying Milk, and that part of Class 3 Qualifying Milk required for the manufacture of cottage cheese or cream cheese.
- (2) MSQ allocated by the Board as a traditional allocation shall be allocated to a Dairy Plant on a weekly basis and expressed as a volume per week.
- (3) The MSQ not allocated among Dairy Plants as a traditional allocation shall be reserved to a discretionary milk pool which:
- (a) when initially established, shall not be less than 10% of the MSQ;
 - (b) shall include all over-quota milk and any part of a traditional allocation to a Dairy Plant that is not received and processed by that Dairy Plant; and
 - (c) may be utilized to address seasonal or production irregularities, or to establish new growth opportunities for existing and future Dairy Plants.
- (4) MSQ allocated by the Board as a traditional allocation:
- (a) shall be allocated as a specified Class or Classes of Qualifying Milk;
 - (b) shall be allocated to a specified Dairy Plant operated by a Vendor;
 - (c) is contingent upon the undertaking and ability of the receiving Vendor to maintain processing capacity sufficient for the volume of milk so allocated, together with:
 - (i) a reasonable volume of milk in excess of that allocation; and
 - (ii) a reasonable volume of milk eligible only for the over Total Production Quota pool;
 - (d) excludes MSQ associated with the Domestic Dairy Product Innovation Program;

- (e) excludes organic Qualifying Milk produced by a Certified Organic Producer who has a contract with a Vendor for the supply of such organic Qualifying Milk, to the extent only of that specified quantity of organic Qualifying Milk which is the subject of that contract; and
 - (f) excludes organic Qualifying Milk produced by a Certified Organic Producer who has been approved by the Board for the production of organic Qualifying Milk for delivery to a Pool Participant Vendor as determined by the Board having regard to the Pool Participant Vendor's planned annual forecast of milk requirements as provided to the Board.
- (5) In allocating MSQ as traditional allocations, the Board will have regard to:
- (a) the baseline traditional allocation for each Dairy Plant which:
 - (i) in the case of existing Dairy Plants in British Columbia, shall be determined having regard to the volume of milk received and processed by each such Dairy Plant in the highest volume Dairy Year between August 1, 2000 and July 31, 2005 for that Dairy Plant;
 - (ii) in the case of new Dairy Plants established in British Columbia, shall be determined having regard to the volume of milk received and processed by each such Dairy Plant in the highest volume Dairy Year during the first three years of operation;
 - (b) the volume of milk received and processed by each Dairy Plant in British Columbia in Dairy Years subsequent to the Dairy Year in which such Dairy Plant's baseline traditional allocation was established;
 - (c) increases to the provincial allocation of Federal Manufactured Milk Quota, which shall first be applied to replenish the discretionary milk pool until such time as it is equal to 10% of the MSQ;
 - (d) decreases to the provincial allocation of Federal Manufactured Milk Quota, which shall be reflected in:
 - (i) a proportionate reduction to all traditional allocations where the discretionary milk pool is less than 10% of the MSQ; or
 - (ii) a proportionate reduction to all traditional allocations and to the discretionary milk pool where the discretionary milk pool is equal to or greater than 10% of the MSQ;

- (e) any traditional allocation of MSQ made by the Board to a Dairy Plant operated by a Related Vendor;
- (f) any default by a Vendor with respect to the obligations of that Vendor to make payment to the Board for litres of Qualifying Milk and butterfat content received from Producers, or on account of levies imposed by the Board, as required under this Consolidated Order, which default has remained uncured for more than 45 days following the delivery of a written notice of default and demand for rectification; and
- (g) the principle that any traditional allocation of milk supply among Dairy Plants should promote the objective of enhancing or maintaining industry stability, having regard to the interests of all industry participants.

Proportionate Reduction of Traditional Allocations

28. Where there is insufficient milk production to satisfy traditional allocations made to Dairy Plants, each traditional allocation made to a Dairy Plant shall be proportionately reduced so as to ensure that first priority can continue to be given to the demand for Class 1 Qualifying Milk, Class 2 Qualifying Milk, and that part of Class 3 Qualifying Milk required for the manufacture of cottage cheese or cream cheese.

Surrender of Traditional Allocations

29. (1) Every traditional allocation made to a Dairy Plant that is ceasing operations shall be surrendered to the discretionary milk pool unless the Board otherwise approves an application, made to it by the Vendor that had operated that Dairy Plant, for an order permitting the associated traditional allocation to be moved to another Dairy Plant operated by that Vendor in British Columbia, which order shall not be unreasonably denied.
- (2) Any part of a traditional allocation that is made to a Dairy Plant but not received and processed by that Dairy Plant shall be surrendered to the discretionary milk pool in the Dairy Year in which that part of the traditional allocation was not received and processed.
- (3) Any part of a traditional allocation that is made to a Dairy Plant but not received and processed by that Dairy Plant for two consecutive years shall be surrendered to the discretionary milk pool and that Dairy Plant's traditional allocation shall be reduced accordingly.

Variation of Traditional Allocation

30. (1) A Vendor may apply to the Board for a variation of a traditional allocation made by the Board to a Dairy Plant operated by that Vendor.
- (2) Without limited the generality of subsection (1), a Vendor may apply to the Board for a temporary variation of a traditional allocation as may be required to accommodate routine maintenance or other short-term disruption to the processing capacity of a Dairy Plant operated by that Vendor, provided that such application is made at least one month prior to the anticipated short-term disruption.

Utilization of Discretionary Milk Pool

31. (1) Vendors establishing new Dairy Plants in British Columbia may make a written application to the Board to receive and process a volume of milk available from the discretionary milk pool, provided that such application is made at least two months prior to the anticipated need for such milk.
- (2) Dairy Plants with traditional allocations may make a written application to the Board to receive and process a volume of milk available from the discretionary milk pool, provided that such application sufficiently demonstrates a need for milk in addition to that available under the traditional allocation.
- (3) Where a Dairy Plant with a traditional allocation has demonstrated sustained growth for a consecutive two-year period, the Board may, in its sole discretion, increase that Dairy Plant's traditional allocation from milk available from the discretionary milk pool.

PART VIII - PRICES AND PAYMENT

Prices to be Established and Published

32. The Board will, on or before the last day of each month, establish and publish in Schedule 4 to this Consolidated Order the following month's prices to be paid by Pool Participant Vendors to the Board, on behalf of Pool Participant Producers, for milk utilized in Classes 1(a) through 5(d), as follows:
- (a) the butterfat price for each kilogram of butterfat in each of Classes 1(a) through 4(m);
 - (b) the protein price for each kilogram of protein in each of Classes 1(a) through 4(m);
 - (c) the other solids price for each kilogram of other solids in each of Classes 1(a) through 4(m);
 - (d) the butterfat price for each kilogram of butterfat in each of Classes 5(a) through 5(c);
 - (e) the protein price for each kilogram of protein in each of Classes 5(a) through 5(c);
 - (f) the other solids price for each kilogram of other solids in each of Classes 5(a) through 5(c); and
 - (g) the price for each kilogram of each component in Class 5(d) determined for each individual permit issued by the Commission.

Advance Payment to be Made by Pool Participant Vendors

33. (1) On the last Business Day of each month, each Pool Participant Vendor who has received milk from Pool Participant Producers, through the Board, shall make an advance payment to the Board, on behalf of Pool Participant Producers, for litres of Qualifying Milk and butterfat content received from such Pool Participant Producers during the first 15 days of that month. The minimum advance payment shall be that which is set out in Schedule 4 to this Consolidated Order.
- (2) Each Pool Participant Vendor shall pay to the Board interest, on any part of a minimum advance payment which is past due, at the rate of 24% per annum.

Final Monthly Settlement to be Made by Pool Participant Vendors

34. (1) All Vendors operating under:

- (a) a Class "A" Vendor Licence and a Class "A-FED" Vendor Licence;
- (b) a Class "B" Vendor Licence;

shall report to the Board each month, in the prescribed form, details of the following:

- (c) the quantity of milk received (expressed in litres) and the quantity of butterfat in such milk (expressed in kilograms) based upon component test results certified by an accredited laboratory;
 - (d) the quantity of milk (expressed in litres) and the quantity of butterfat (expressed in kilograms) received from other Vendors;
 - (e) the quantity of milk (expressed in litres) and the quantity of butterfat (expressed in kilograms) used in Classes 1, 2, 3 and 4;
 - (f) the quantity of milk (expressed in litres) and the quantity of butterfat (expressed in kilograms) used in Class 5; and
 - (g) the quantity of milk (expressed in litres) and the quantity of butterfat (expressed in kilograms) transferred to other Pool Participant Vendors.
- (2) The Board will calculate the kilograms of protein and the kilograms of other solids for each category described in paragraphs 32(1)(f) through (g) relative to the litres of milk and kilograms of butterfat reported by a Pool Participant Vendor, in accordance with the Protein and Other Solids Formula set out in Schedule 5.
- (3) The Board will calculate the final monthly settlement due from a Pool Participant Vendor to the Board, on behalf of Pool Participant Producers, using the information provided under paragraph 32(1)(g), adjusted as necessary to correct for reporting errors disclosed by audit verification of the Pool Participant Vendor's reports, order change and disruption surcharges, and the results of the calculation described in subsection 32(2), as follows:
- (a) the butterfat amount (determined by multiplying the kilograms of butterfat processed by that Pool Participant Vendor in each class, by the applicable butterfat price published in Schedule 4 herein);
 - (b) the protein amount (determined by multiplying the kilograms of protein processed by that Pool Participant Vendor in each class, by the applicable protein price published in Schedule 4 herein);

- (c) the other solids amount (determined by multiplying the kilograms of other solids processed by that Pool Participant Vendor in each class, by the applicable other solids price published in Schedule 4 herein);
- (4) Each month, the Board will charge to each Pool Participant Vendor, on behalf of Pool Participant Producers, the final monthly settlement due from that Pool Participant Vendor to the Board, on behalf of Pool Participant Producers, in accordance with subsection (3). The final monthly settlement for litres of Qualifying Milk and butterfat content received by a Pool Participant Vendor during a month is due on the 12th Business Day after the end of that month.
- (5) Each Pool Participant Vendor shall pay to the Board interest, on any part of a final monthly settlement which is past due, at the rate of 24% per annum.

Price Premiums

35. (1) Where a Pool Participant Vendor receives:

- (a) organic Qualifying Milk from a Certified Organic Producer; or
- (b) naturally enhanced fatty acids Qualifying Milk;

the Pool Participant Vendor shall, on or before the 12th day after the end of each month, pay to the Board a minimum premium of:

- (c) \$0.30 for each litre of organic Qualifying Milk determined by the Board to be within quota production and received by the Pool Participant Vendor from that Certified Organic Producer during the previous month; and
 - (d) \$0.15 for each litre of naturally enhanced fatty acids Qualifying Milk determined by the Board to be within quota production and received by the Pool Participant Vendor during the previous month.
- (2) Where organic Qualifying Milk or naturally enhanced fatty acids Qualifying Milk is not received by any Pool Participant Vendor in accordance with a Pool Participant Vendor's planned annual forecast of milk requirements as provided to the Board, that Pool Participant Vendor shall pay to the Board the applicable premium on 95% of the Qualifying Milk so shipped and not received by that Pool Participant Vendor.
 - (3) The premiums payable by a Pool Participant Vendor under subsection (1) are in addition to any amounts due by that Pool Participant Vendor to the Board under section 34.

- (4) The premiums payable by a Pool Participant Vendor under subsection (1) will be reviewed by the British Columbia Specialty Production Advisory Committee which may make substantiated recommendations to the Board for revision to the amounts of the premiums. Any revision to the premiums may only be made by the Board effective August 1 and February 1 of any year.
- (5) The premiums collected by the Board on organic Qualifying Milk or naturally enhanced fatty acids Qualifying Milk will be paid to the applicable Producers based on the within quota volume of such organic Qualifying Milk or naturally enhanced fatty acids Qualifying Milk shipped.

PART IX - EQUALIZATION OF RETURNS

Principles of Equalization

36. (1) Each Pool Participant Producer shall be deemed to market within quota production in each class in the same proportion that the total sales by all Pool Participant Vendors of Qualifying Milk in each class bears to the volume of milk received by them from all Pool Participant Producers.
- (2) The “within Total Production Quota pool - butterfat rate” is fixed as one rate for all Qualifying Milk such that each Pool Participant Producer will receive from the within Total Production Quota Pool the same return for equal quantities of butterfat from Qualifying Milk.
- (3) The “within Total Production Quota pool - protein rate” is fixed as one rate for Qualifying Milk such that each Pool Participant Producer will receive the same return for equal quantities of protein from Qualifying Milk.
- (4) The “within Total Production Quota pool - other solids rate” is fixed as one rate for Qualifying Milk such that each Pool Participant Producer will receive the same return for equal quantities of other solids from Qualifying Milk.
- (5) Each Pool Participant Producer shall receive from the over Total Production Quota pool the same “over Total Production Quota pool - butterfat, protein and other solids rates” for each kilogram of each such component derived from over quota Qualifying Milk.

Minimum Pool Participant Producer Rates of Return to be Published

37. The Board will calculate and publish by the 13th day after the end of each month the minimum rate per kilogram for butterfat, protein and other solids that shall be received by a Pool Participant Producer for such components Delivered by that Pool Participant Producer, through the Board, to Pool Participant Vendors, as follows:
- (a) the minimum “within Total Production Quota pool - butterfat rate” for each kilogram of butterfat;
- (b) the minimum “within Total Production Quota pool - protein rate” for each kilogram of protein;
- (c) the minimum “within Total Production Quota pool - other solids rate” for each kilogram of other solids;
- (d) the minimum “over Total Production Quota pool - butterfat rate” for each kilogram of butterfat;

- (e) the minimum “over Total Production Quota pool - protein rate” for each kilogram of protein; and
- (f) the minimum “over Total Production Quota pool - other solids rate” for each kilogram of other solids.

Determination of Minimum Pool Participant Producer Returns for Within Quota Production

38. (1) The gross dollar value of the within Total Production Quota pool is the aggregate of:
- (a) the kilograms of butterfat reported by Pool Participant Vendors under paragraph 32(1)(g), multiplied by the applicable prices published in Schedule 4 herein (provided that if the quantity of such butterfat is greater than the kilograms of butterfat calculated by the Board as qualifying for the within Total Production Quota pool, the difference will be eligible only for the over Total Production Quota pool);
 - (b) the kilograms of protein calculated in accordance with subsection 32(2), multiplied by the appropriate prices published in Schedule 4 herein (provided that if the quantity of such protein is greater than the kilograms of protein calculated by the Board as qualifying for the within Total Production Quota pool, the difference will be eligible only for the over Total Production Quota pool); and
 - (c) the kilograms of other solids calculated in accordance with subsection 32(2), multiplied by the appropriate prices published in Schedule 4 herein (provided that if the quantity of such other solids is greater than the kilograms of other solids calculated by the Board as qualifying for the within Total Production Quota pool, the difference will be eligible only for the over Total Production Quota pool).
- (2) The Board will adjust the gross dollar value of protein and other solids calculated in accordance with paragraphs 36(1)(b) and (c) respectively, by taking the sum of the gross dollar value of protein and other solids, and apportioning 80% of such sum to protein and 20% of such sum to other solids.
- (3) The Board may adjust the “within Total Production Quota pool – butterfat rate” and the “within Total Production Quota pool – protein rate” as a means of encouraging the production of milk that most closely approximates the Board’s target ratio of total solids non-fat to butterfat.

- (4) The Board may adjust the gross dollar value of butterfat, or the adjusted gross dollar value of either or both of protein or other solids calculated in accordance with subsection 36(2), in the within Total Production Quota pool. Such adjustments may reflect:
 - (a) charges incurred by the Board from time to time related to cost sharing agreements with the Commission and other provinces;
 - (b) approved freight charges and approved delivery surcharges for milk transported within British Columbia;
 - (c) agreed freight charges for milk transported between British Columbia, Alberta, Saskatchewan and Manitoba;
 - (d) interest earned on the Producer equalization pool bank account; and
 - (e) audit adjustments to a prior month's Producer pool.
- (5) The Board may apply a credit to the within Total Production Quota pool, such credit to be calculated by taking the sum of:
 - (a) the gross dollar value of butterfat, protein and other solids in the within Total Production Quota pool calculated in accordance with paragraphs 36(1)(a), (b) and (c) respectively; plus
 - (b) the total dollars charged to Pool Participant Vendors for the kilograms of butterfat, protein and other solids in Classes 2 through 4(d); less
 - (c) the amount paid to Pool Participant Producers for butterfat, protein and other solids in accordance with subsections 35(d), (e) and (f) respectively.

Determination of Minimum Pool Participant Producer Returns, If Any, for Over Quota Production

39. The Board will determine the minimum Pool Participant Producer returns, if any, to be paid to Pool Participant Producers for butterfat, protein and other solids determined by the Board as being eligible only for the over Total Production Quota pool in accordance with paragraphs 36(1)(a), (b) and (c) respectively.

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PART X - DISTRIBUTION OF EQUALIZED RETURNS

Distribution of Equalized Returns to Pool Participant Producers

40. (1) On the 1st Business Day of each month, the Board will make an advance payment to Pool Participant Producers for litres of Qualifying Milk and butterfat content Delivered by such Pool Participant Producers during the first 15 days of the previous month. The minimum advance payment shall be that which is set out in Schedule 4 to this Consolidated Order, less any amount that may be deducted by the Board, in its sole discretion, on account of levies assessed against that Pool Participant Producer by this Consolidated Order. The Board may nevertheless suspend the making of any advance payment to any Pool Participant Producer as the Board may, in its sole discretion, deem appropriate.
- (2) Subject to subsections (3) and (4), the Board will, on the 13th Business Day of each month, distribute equalized returns to Pool Participant Producers on account of Qualifying Milk Delivered by those Pool Participant Producers, through the Board, to Pool Participant Vendors during the previous month, as follows:
- (a) for within quota production:
 - (i) at not less than the minimum “within Total Production Quota pool - butterfat rate” for each kilogram of butterfat Delivered;
 - (ii) at not less than the minimum “within Total Production Quota pool - protein rate” for each kilogram of protein Delivered; and
 - (iii) at not less than the “within Total Production Quota pool - other solids rate” for each kilogram of other solids Delivered;
 - (b) for over quota production:
 - (i) at not less than the minimum “over Total Production Quota pool - butterfat rate” for each kilogram of butterfat Delivered;
 - (ii) at not less than the minimum “over Total Production Quota pool - protein rate” for each kilogram of protein Delivered; and
 - (iii) at not less than the minimum “over Total Production Quota pool - other solids rate” for each kilogram of other solids Delivered;
- (3) Before distributing equalized returns to Pool Participant Producers, the Board will deduct from the amount of each Pool Participant Producer’s equalized return:

- (a) the amount of the advance payment made to that Pool Participant Producer, if any;
- (b) the amount of levies assessed against that Pool Participant Producer by this Consolidated Order;
- (c) the licence fee due and owing by that Pool Participant Producer, if any;
- (d) that Pool Participant Producer's proportionate share of the aggregate costs relating to the transportation of milk (including the aggregate amount payable to Producers on account of the accessibility credit and volume credits), as determined by the Board after having regard to:
 - (i) the aggregate amount collected by the Board on account of that part of the marketing costs and losses levy imposed by the Board on Producers relating to:
 - A. the cost of each occasion that a Transporter attends at a Producer's dairy farm to receive milk into a tank milk truck; and
 - B. the milk or cream Delivered by a Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (ii) the number of hectolitres of milk or cream Delivered by that Pool Participant Producer in relation to the total number of hectolitres of milk or cream Delivered by all Pool Participant Producers; and
 - (iii) the credits, if any, which that Pool Participant Producer is eligible to receive, as follows:
 - A. an accessibility credit of \$0.15 per hectolitre, where that Pool Participant Producer's yard is train accessible;
 - B. a volume credit of \$0.15 per hectolitre, where the volume of such milk or cream produced in the month by that Pool Participant Producer is equal to or greater than 100,000 litres; and
 - C. an additional volume credit of \$0.15 per hectolitre, where the volume of such milk or cream produced in the month by that Pool Participant Producer is equal to or greater than 200,000 litres;

- (e) the fee remitted by Pool Participant Vendors to the Board on behalf of that Pool Participant Producer pursuant to the *Milk Industry Standards Regulation* made under the *Milk Industry Act*.
- (4) In the event that the amount of the deduction provided for in subsection (3) is greater than the total amount of that Pool Participant Producer's equalized return, the outstanding amount of the deduction may be carried forward against subsequent equalized returns.

Payment of Milk Quality Bonus to Qualifying Pool Participant Producers

- 41. On the 13th Business Day of each month, the Board will pay to qualifying Pool Participant Producers a milk quality bonus not exceeding \$0.30 for each hectolitre of Qualifying Milk received by a Pool Participant Vendor through the Board during the previous month provided that such Qualifying Milk has:
 - (a) a somatic cell count equal to or less than 250,000 cells per millilitre; and
 - (b) an individual bacteria count equal to or less than 30,000 per millilitre; and
 - (c) been shipped by a Pool Participant Producer validated for the Canadian Quality Milk program.

Statements

- 42. When distributing equalized returns to Pool Participant Producers, the Board will provide each such Pool Participant Producer with a statement showing in detail:
 - (a) the total volume, expressed in litres, of all Qualifying Milk eligible for the within Total Production Quota pool and Delivered by that Pool Participant Producer during the month for which payment is made;
 - (b) the total kilograms of butterfat, protein and other solids eligible for the within Total Production Quota pool and contained in the Qualifying Milk Delivered by that Pool Participant Producer during the month for which payment is made;
 - (c) the rate paid and the amount of the payment for each kilogram of butterfat, protein and other solids described in subsection 40(b);
 - (d) the total volume, expressed in litres, of all Qualifying Milk eligible for only the over Total Production Quota pool and Delivered by that Pool Participant Producer during the month for which payment is made;

- (e) the total kilograms of butterfat, protein and other solids eligible for only the over Total Production Quota pool and contained in the Qualifying Milk Delivered by that Pool Participant Producer during the month for which payment is made;
- (f) the rate paid and the amount of the payment for each kilogram of butterfat, protein and other solids described in subsection 40(e);
- (g) detailed accounting in respect of milk which has been found not to be Qualifying Milk;
- (j) all authorized or required deductions, fully itemized.

PART XI - LEVIES

Producer Levies

43. Levies are fixed and imposed on each Producer as set out in Schedule 6, irrespective of whether any such Producer has been allotted Total Production Quota or is the holder of a Valid Licence.

Vendor Levies and Charges

44. (1) Levies are fixed and imposed on each Vendor as set out in Schedule 6. Such levies are due and payable to the Board on the 12th Business Day of each month, and shall thereafter bear interest at the rate of 24% per annum.
- (2) An order change surcharge of \$350.00 will be imposed upon a Vendor on each occasion that such Vendor cancels or refuses a requested Delivery of milk on less than three Business Days' notice to the Board.
- (3) For the purpose of subsection (2), a Vendor may request a volume of milk on a specified day provided that such request is made at least three Business Days before the requested Delivery date, but the Board will determine, in consultation with the Vendor, the time of day that such milk will be Delivered.

Receipt of Levies Under the Federal Regulations

45. The Board may receive levies fixed and imposed under the Federal Regulations as agent for the Commission and may retain such proportion of those levies for the administration of the Board as may be agreed between the Board and the Commission.

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PART XII - REPORTING AND INSPECTION

Vendor Reporting to Board

46. (1) Every Vendor shall, on or before the 3rd Business Day of each month, provide the Board with a true and detailed report of the total milk receipts and total utilization by classes of milk during the immediately preceding month, in such form as the Board may from time to time prescribe.
- (2) Every Vendor shall authorize and cause its contracting laboratory to provide directly to the Board, on a monthly basis, a report detailing the results of milk component tests conducted four times monthly.

Vendor Records to be Available for Inspection

47. (1) Vendors shall keep such books, records, and accounts, as will afford an intelligent understanding of the conduct of their business, in a form and containing particulars as the Board may from time to time prescribe.
- (2) All books, records, and accounts required to be kept under subsection (1) must at all times be available for inspection by the Board, or any officer or auditor of the Board, or any other Person as may be authorized by the Board from time to time to make an inquiry or report.
- (3) Every Vendor shall retain and have available for inspection by the Board all original records, whether contained in books or accounts or otherwise, for a period of three years.

Licensees to Provide Information and Permit Inspection

48. Every Person licensed by the Board shall, upon request, provide the Board with any information relating to the production, processing, storing, transporting, and marketing by that Person of the regulated product, and shall make specific answers to any questions submitted to that Person by any member or employee of the Board for that purpose, and shall permit any member or employee of the Board to search vehicles in which the regulated product is transported.

Inspection of Producer's Premises

49. Every Producer shall permit any member or employee of the Board or any Person designated by the Board to inspect the dairy farm or other premises of the Producer for the purposes of determining whether or not there has been compliance with the *Milk Industry Act*, the B.C. Act, the B.C. Regulation or orders of the Board.

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PART XIII - PROHIBITIONS

Producer or Producer Vendor

50. (1) No Producer or Producer Vendor shall produce milk for:
- (a) processing or manufacture into a fluid milk product;
 - (b) processing or manufacture into a manufactured milk product;
- unless the Producer or Producer Vendor:
- (c) is the holder of a Valid Licence issued by the Board; and
 - (d) has, if required in accordance with this Consolidated Order, an allotment of Total Production Quota.
- (2) No Producer or Producer Vendor shall sell, ship for sale or offer for sale any milk except through the Board; and
- (3) No Producer or Producer Vendor shall by any means separate butterfat from any milk produced on the farm for the purpose, or having the effect, of reducing or affecting that Producer's or Producer Vendor's recorded or recordable butterfat production.

Vendor

51. (1) No Vendor shall buy or offer to buy milk from a Producer except through the Board.
- (2) No Vendor shall by any means separate or remove protein from fluid milk.

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PART XIV - COMPLIANCE

Suspension or Cancellation

52. (1) In addition to any other remedies available to the Board in respect of a contravention of this Consolidated Order, the B.C. Act, the B.C. Regulation or other relevant legislation, the Board may suspend or cancel the licence held by, or Total Production Quota allotted to, a Person determined by the Board to be in contravention.
- (2) Where a licence has been suspended for a definite period for a contravention and that contravention has not been rectified within the period of suspension and the contravention continues, the Board may forthwith cancel the licence.
- (3) A Producer whose licence has been suspended may not make Deliveries of milk during the period of suspension.

Hearings

53. (1) Where the Board decides on a contravention, it shall so advise the Person directly affected by such decision as soon thereafter as is practicable, and may, at the discretion of the Board, provide that Person with an opportunity to show cause as to why the decision should be reconsidered by the Board.
- (2) A show cause hearing may be held in person, or by way of the receipt of written submissions from the Person directly affected by the decision, or in such other manner as the Board, in its discretion, deems advisable.

Board May Review, Vary or Rescind Decision

54. The Board may review, vary or rescind any decision or order made by it.

Seizure

55. (1) In addition to any other remedies available to the Board in respect of a contravention, the Board may cause a duly authorized representative of the Board to seize any regulated product produced, transported, packed, stored, or marketed in violation of orders of the Board, the B.C. Act, the B.C. Regulation, the *Milk Industry Act*, or other relevant legislation, and such employee or representative may take and remove the whole of the regulated product seized by him or a sample thereof and deliver it to the Board.

- (2) Upon seizing any regulated product, the employee or representative of the Board authorized so to do shall attach a seizure tag on, at, or near the location of the regulated product so seized and shall deliver a notice of such seizure in writing in such form as the Board may prescribe to any adult Person in, upon, or about the premises where the same is found or to any adult Person who appears at the time of the seizure to be in charge of any place, premises, or vehicle in, on, about, or near which the regulated product is found.
- (3) The owner of any regulated product seized pursuant to this Consolidated Order may, within ten days after the seizure, apply to the Board by notice in writing for a hearing to show cause why the regulated product so seized should not be disposed of by the Board. Upon receipt of the notice a hearing shall be arranged at the convenience of the Board. The regulated product so seized shall not be disposed of until the hearing has been completed and then only by order of the Board. If notice requesting a hearing has been received, then upon the owner having been heard, or if no notice has been received within the time limit aforesaid, the Board may dispose of the regulated product as it sees fit by sale or otherwise, or the Board may, if in its opinion the offence was committed through inadvertence, return the regulated product so seized to the owner or order it to be sold for the account of the owner.
- (4) Any regulated product so seized may be sold by the Board and the Board may charge and collect out of the proceeds of the sale the cost of processing, packing, storing, and marketing, after having deducted any levies or expenses of the Board arising out of or relating to the seizure and sale of such regulated product. The balance, if any, shall be paid to the Person from whom the regulated product was seized.
- (5) Any of the regulated product so seized may be placed in storage or processed and placed in storage in such a manner as to prevent spoilage arising out of the seizure. The cost of the processing and storage shall be deducted from the proceeds or paid by the owner of the regulated product as the Board may direct.
- (6) Without the written authority of the Board, no Person other than a duly authorized employee or representative of the Board shall move, destroy, sell or offer for sale any regulated product on which there has been placed a seizure tag or with respect to which a notice of seizure has been delivered.

PART XV - COMMITTEES

Appointment of Advisory Committees

56. (1) The Board may appoint advisory committees whose function shall be to advise and make recommendations to the Board on matters relating to the operation and administration of this Consolidated Order or of matters relating to the objectives and functions of the Board. The Board may also terminate appointments to such advisory committees and disband such advisory committees where it deems it appropriate.
- (2) The Board may determine the structure of such advisory committees, establish the terms of reference under which such advisory committees shall operate, and provide for payment of the expenses of members of such advisory committees related to their duties.

British Columbia Milk Industry Advisory Committee

57. There is hereby continued a dairy industry advisory committee called the British Columbia Milk Industry Advisory Committee ("B.C.M.I.A.C."), whose members shall be appointed at the pleasure of the Board as follows:
- (a) a total of five (5) Persons as Producer representatives from Persons nominated as follows:
 - (i) Lower Mainland Region - two (2) Persons nominated by the B.C. Milk Producer's Association;
 - (ii) Vancouver Island Region - one (1) Person nominated by the B.C. Milk Producers' Association;
 - (iii) Okanagan Region - one (1) Person nominated by the B.C. Milk Producers' Association;
 - (iv) All other regions - one (1) Person nominated by the B.C. Milk Producers' Association;
 - (b) a total of five (5) Persons as Processors' representatives from Persons nominated by the British Columbia Dairy Council;
 - (c) one (1) Person nominated by the British Columbia Ministry of Agriculture and Food; and
 - (d) an unspecified number of Persons who have the capacity to broaden the scope of experience available to the B.C.M.I.A.C.

Audit Advisory Committee

58. (1) There is hereby continued an audit advisory committee called the British Columbia Milk Marketing Board Audit Advisory Committee (“B.C.M.M.B.A.A.C.”) consisting of not more than nine (9) members whose function will be to advise and make recommendations to the Board on matters relating to expenditure authority and control of Board operations, per diem rates paid to the Board members, and the appointment of the Board’s external auditor.
- (2) The Members of the B.C.M.M.B.A.A.C. shall be appointed at the pleasure of the Board as follows:
- (a) two (2) licensed Producer appointed by the Board who will serve for a two year term;
 - (b) two (2) licensed Producers appointed by the BC Milk Producers Association (BCMPA) who will serve as long as they are appointed to the committee by the BCMPA;
 - (c) two (2) Board members;
 - (d) the Board’s General Manager and the Board’s Controller; and
 - (e) one (1) Processor representative from the B.C.M.I.A.C.
- (3) Any Person appointed to the B.C.M.M.B.A.A.C. by reason of holding a position on the Board or on the B.C.M.I.A.C. shall cease to be a member of the B.C.M.M.B.A.A.C. at the same time that such Person ceases to hold a position on the Board or on the B.C.M.I.A.C.
- (4) The Chairperson of the B.C.M.M.B.A.A.C. shall be appointed annually by the Board from the two (2) licensed Producer appointed to the B.C.M.M.B.A.A.C. by the Board.

British Columbia Specialty Production Advisory Committee

59. (1) There is hereby established a specialty production advisory committee called the British Columbia Specialty Production Advisory Committee (“B.C.S.P.A.C.”), consisting of not less than five (5) members whose function will be to advise and make recommendations to the Board on matters relating to:
- (a) levies and levy rates applicable to Producers of Specialty Production;
 - (b) the volume requirements of Vendors engaged in the marketing of Specialty Production;

- (c) the premium payable by Vendors to the Board on account of Producers of Specialty Production;
 - (d) classes of Specialty Production;
 - (e) pooling criteria for Specialty Production; and
 - (f) the number of Producers to be invited to convert from Conventional Production to Specialty Production.
- (2) The members of the B.C.S.P.A.C. shall be appointed at the pleasure of the Board as follows:
- (a) one independent chair if no chair is nominated from among the members;
 - (b) one Vendor engaged in the marketing of Specialty Production;
 - (c) one Producer of Specialty Production;
 - (d) one Producer of Specialty Production who is a participant in the Board's Cottage Industry Program;
 - (e) one Board member who shall be a non-voting member of the B.C.S.P.A.C.; and
 - (f) at least one additional Person who has the capacity to broaden the scope of experience available to the B.C.S.P.A.C.

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PART XVI - MISCELLANEOUS

Forms

60. The Board may prescribe forms to be used regarding any matters under this Consolidated Order and may, from time to time, delete, revise, add to, or replace such forms.

Revocation and Transition

61. The Board's Consolidated Order of November 1, 2006, as amended, is hereby revoked, but such revocation shall not affect any offences committed or any penalty incurred under the Consolidated Order so revoked.

Commencement

62. This Consolidated Order comes into effect on October 1, 2009.

DATED AT ABBOTSFORD, BRITISH COLUMBIA, THIS ____ DAY OF _____, 2009.

BRITISH COLUMBIA MILK MARKETING BOARD

B. Gorrell, Chairman

B. Cuthbert, Vice-Chairman

B. Jansen, Secretary-Treasurer

W. Goerzen, Member

J. Pruijm, Member

L. Schurmann, Member

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**SCHEDULE 1
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

Graduated Entry Program Rules

Definitions

1. In these Rules:

“**Independent Production Unit**” means a dairy farm that is geographically and operationally separate from a dairy farm on which any other Person is actively engaged in milk production;

“**Spouse**” means a partner in a marriage, or a Person with whom there has been cohabitation in a conjugal relationship, having so cohabitated for a continuous period of at least one year.

Application

2. (1) A Person may apply to participate in the Graduated Entry Program by filing with the Board:

- (a) an application form, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public;
- (b) a copy of the applicant’s birth certificate or other proof of age acceptable to the Board;
- (c) proof of Canadian citizenship or permanent resident status;
- (d) proof of permanent resident status in the Province of British Columbia; and
- (e) a non-refundable application fee of \$250.00.

(2) A Person seeking to participate in the program must have the following qualifications:

- (a) a genuine intention to be actively engaged in milk production;
- (b) be a Canadian citizen or permanent resident of Canada;
- (c) be a permanent resident in the Province of British Columbia;
- (d) be at least 19 years of age at the time of application; and

- (e) neither the applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Total Production Quota, or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in British Columbia, whether directly or indirectly, or through any organization or entity.
- (3) An applicant for the Graduated Entry Program may be a partnership in which case each partner must qualify under subsection (2).

Wait List

3. (1) Where there are more applicants than the program can accommodate, the excess applicants will be placed on a wait list in the order in which complete application packages are received by the Board.
- (2) Where an applicant is in breach of Board orders, or applicable legislation, that applicant's name will not be placed on the wait list.
- (3) Positions on the wait list are:
- (a) non-transferable, under any circumstances;
 - (b) not available to be pledged as security; and
 - (c) subject to renewal on or prior to April 1 of each calendar year following the calendar year in which the application was first filed with the Board, by completion of an annual renewal form and payment of an annual non-refundable renewal fee of \$100.00.
- (4) Persons on the wait list may have their applications rejected and their wait list position cancelled for any of the following:
- (a) breach of Board orders or applicable legislation;
 - (b) making false statements on the application form;
 - (c) changes in circumstances such that an applicant no longer qualifies;
 - (d) changes in legislation adversely affecting the Graduated Entry Program;
 - (e) an NSF cheque for the application or annual renewal fee; or
 - (f) failure to file the annual renewal notice or failure to pay the annual non-refundable renewal fee;

Entry in Program

4. (1) The Board:
 - (a) will invite a minimum of three applicants to enter the Graduated Entry Program each year;
 - (b) may establish a maximum number of applicants who will be invited to enter the Graduated Entry Program in a year and that maximum number may vary from year to year; and
 - (c) may, in its sole discretion, preferentially invite an applicant to enter the Graduated Entry Program where that applicant has a genuine intention to be actively engaged in Specialty Production, subject to the applicant's place on the wait list relative to any other applicants having a genuine intention to be actively engaged in Specialty Production.
- (2) Where an applicant from the wait list is invited by the Board to become an entrant to the Graduated Entry Program, the following provisions apply:
 - (a) the entrant shall file a "Program Entry" application, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public;
 - (b) in the event the entrant is in breach of any of those matters which would cause an applicant to be struck off the wait list, the entrant's invitation shall be revoked;
 - (c) the entrant shall obtain a Producer licence from the Board of the appropriate class;
 - (d) the entrant, including all partners if the entrant is a partnership, must meet with the Board prior to August 1 of the year when the invitation is extended and must present a 5 year business plan, containing information deemed appropriate by the Board, including:
 - (i) proof, in a form satisfactory to the Board, of the entrant's financial ability to establish an acceptable Independent Production Unit for the production of milk; and
 - (ii) proof, in a form satisfactory to the Board, that the entrant has economically viable plans to sustain the production of milk on an acceptable Independent Production Unit;

- (e) commencing August 1, upon receipt of the production of a qualifying entrant by a Vendor, the Board will allot to the entrant 5,000 kilograms of Total Production Quota. If the entrant commences production after August and between September and the following January 31, the allotment of Total Production Quota for that Dairy Year will be reduced by 8.5% for each month preceding the date that production commences, for that Dairy Year only;
- (f) the entrant must commence production between August 1 and the following January 31, failing which the entrant's participation in the program shall be terminated.

Special Restrictions on Allotments Under the Program

- 5. (1) Total Production Quota allotted by the Board under the program may be held for production by the entrant only for so long as the entrant:
 - (a) permits Board audits of the Independent Production Unit operation to ensure compliance with Board orders and all applicable legislation, including all terms and conditions of the program;
 - (b) is in good standing with all applicable Board orders and all applicable legislation, including all terms and conditions of the program; and
 - (c) is actively engaged in milk production;

failing which the Total Production Quota so allotted shall thereupon be subject to immediate cancellation on notice by the Board to the entrant.

Matching Allotment of Total Production Quota

- 6. (1) Where an entrant purchases or acquires Total Production Quota (other than by a general allotment of new Total Production Quota) within five years from the date that the entrant commences production, the Board will allot to the entrant an equivalent amount of Total Production Quota, up to a maximum of 2,000 kilograms of Total Production Quota.
- (2) Matching allotments of Total Production Quota made by the Board under subsection (1) are subject to the special restrictions described in section 5.

Determination as to Whether the Entrant is Actively Engaged in Milk Production

7. (1) The Board will determine, in its sole discretion, whether an entrant is actively engaged in milk production for the purposes of the program. Without limiting the generality of the foregoing, the Board will have regard to the following factors:
 - (a) whether the Total Production Quota allotted under the program is being used for the benefit of the entrant;
 - (b) whether the entrant is active in the day-to-day affairs of the Independent Production Unit, including matters of animal husbandry;
 - (c) whether the entrant operates and controls the Independent Production Unit;
 - (d) whether the entrant owns, leases or rents the Independent Production Unit;
 - (e) whether the entrant pays for feed and other farm supplies utilized on the Independent Production Unit; and
 - (f) whether the entrant enjoys the chance of profit and bears the risk of loss in relation to the operations of the Independent Production Unit.
- (2) For the purpose of determining whether the entrant is actively engaged in the production of milk, the Board shall have regard to the substance and effect of any arrangement made between the entrant and any other Person, irrespective of the form of that arrangement.
- (3) Where it appears to the Board that the entrant is primarily engaged in the business of administering Total Production Quota allotted under the program, and that some other Person is primarily engaged in the business of milk production associated with that Total Production Quota, the entrant shall be deemed not to be actively engaged in milk production.

Changes to the Graduated Entry Program

8. (1) Applicants on the wait list and entrants under the program are subject to all changes that the Board may make from time to time to the terms and conditions of the program.

- (2) Notwithstanding subsection (1), the Board may, in its sole discretion, provide to an entrant a written exemption from any term or condition of the program that has come into effect after the entrant's entry into the program, in which event the entrant shall continue to be governed by the terms and conditions of the program as they existed at the time of the entrant's entry into the program except insofar as those terms and conditions may conflict with any subsequent term or condition for which a written exemption had not been granted.

**SCHEDULE 2
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

Cottage Industry Program Rules

Application

1. (1) These Rules apply to all existing Cottage Industry Program Participants. Where the provisions of the Consolidated Order are inconsistent with the terms of any Agreements made between the Board and any existing Cottage Industry Program Participant, the provisions of the Consolidated Order shall govern and be binding upon such existing Cottage Industry Program Participant.
- (2) A Person who has not previously participated in the Cottage Industry Program or predecessor program may apply to participate in the Cottage Industry Program by filing with the Board an application form, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public, provided that neither the applicant nor the spouse of the applicant may have, or have had at any time, any financial interest in Total Production Quota, or any other licence, permit or quota issued or granted by any other supply management commodity board, whether directly or indirectly, or through any organization or entity.
- (3) A Person seeking to participate in the program must undertake in writing:
 - (a) not to own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;
 - (b) to operate a Dairy Plant on a dairy farm owned by that Person;
 - (c) to process at that Dairy Plant only milk produced by that Person's own cows;
 - (d) to process such milk at that Dairy Plant only into specified manufactured milk products approved by the Board;
 - (e) to market such specified manufactured milk products only in a consumer-ready form at the time of sale;
 - (f) not to receive milk from another Vendor or Producer;
 - (g) not to market fluid milk;

- (h) to permanently install and maintain as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;
- (i) in the alternative to (h), at that Person's expense, to commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and, upon request of an authorized representative of the Board, to immediately make available any and all tests and monitoring results to the Board;
- (j) not to sell, ship for sale or offer for sale any milk produced on the farm without the written approval of the Board;
- (k) to pay promptly any and all amounts charged to that Person by the Board for over quota production;
- (l) to cease production in the event of non-compliance with orders of the Board from time to time in force;
- (m) to provide such securities or assurances as the Board may require from time to time; and
- (n) not to apply for participation in the program on a dairy farm with respect to which Total Production Quota had previously been allotted to another Producer under the Cottage Industry Program.

Total Production Quota

2. (1) Where an applicant has provided a written undertaking acceptable to the Board and is not in breach of it, and where the Board has issued a Class "D" Producer Vendor Licence to such Person, the Board will allot Total Production Quota to that Person in an amount not less than 1,500 kilograms and not more than is demonstrably necessary based on that Person's business plan for the first year of operation. During the first 15 years from the date of initial allotment, the Board may allot additional amounts of Total Production Quota to that Person provided that such additional amounts are not more than is demonstrably necessary based on that Person's business plan for that year of operation, and provided that the aggregate of all amounts of Total Production Quota allotted to that Person under the program does not exceed 10,000 kilograms.
- (2) All Total Production Quota allotted under the program shall Transferable only as a Going Concern Sale during the first 15 years from the date of initial allotment.

Conditions and Prohibitions

3. A Cottage Industry Program participant shall:
 - (a) not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;
 - (b) operate a Dairy Plant on a dairy farm owned by that Person;
 - (c) process at that Dairy Plant only milk produced by that Person's own cows;
 - (d) process such milk at that Dairy Plant only into specified manufactured milk products approved by the Board;
 - (e) market such specified manufactured milk products only in a consumer-ready form at the time of sale;
 - (f) not receive milk from another Vendor or Producer;
 - (g) not market fluid milk;
 - (h) permanently install and maintain as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;
 - (i) in the alternative to (h), at that Person's expense, commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;
 - (j) not sell, ship for sale or offer for sale any milk produced on the farm without the written approval of the Board;
 - (k) pay promptly any and all amounts charged to that Person by the Board for over quota production;
 - (l) cease production in the event of non-compliance with orders of the Board from time to time in force; and
 - (m) provide such securities or assurances as the Board may require from time to time.

Determination of Value of Over Quota Production

4. (1) All Cottage Industry Program participants shall report to the Board each month, in the prescribed form, details of the following:
 - (a) the quantity of milk produced (expressed in litres) and the quantity of butterfat in such milk (expressed in kilograms) based upon component test results certified by an accredited laboratory;
 - (b) the number of days that milk was produced; and
 - (c) the quantity of milk (expressed in litres) and the quantity of butterfat (expressed in kilograms) used in Classes 2, 3 and 4;
- (2) The Board will calculate the kilograms of protein and the kilograms of other solids relative to the litres of milk and kilograms of butterfat reported by a Class "D" Cottage Industry Producer Vendor, in accordance with the Protein and Other Solids Formula set out in Schedule 5.
- (3) The Board will calculate the gross dollar amount of over quota production using the information provided under paragraph 4(1)(c), adjusted as necessary to correct for reporting errors disclosed by audit verification of the Cottage Industry Program participant's reports, and the results of the calculation described in subsection 4(2), as follows:
 - (a) the butterfat amount (determined by multiplying the kilograms of butterfat in each class by the applicable butterfat value published in Schedule 4 herein);
 - (b) the protein amount (determined by multiplying the kilograms of protein in each class by the applicable protein value published in Schedule 4 herein);
 - (c) the other solids amount (determined by multiplying the kilograms of other solids in each class by the applicable other solids value published in Schedule 4 herein);
- (4) Each month, the Board will charge to each Cottage Industry Program participant the gross dollar amount of over quota production calculated in accordance with subsection 4(3). The gross dollar amount of such over quota production, less the rebate determined by the Board in accordance with section 5, is due on the 10th Business Day after the end of that month.

Determination of Rebate, If Any, for Over Quota Production

5. The Board will determine the rebate, if any, to be applied against the amount charged to each Cottage Industry Program participant in accordance with subsection 4(4).

**SCHEDULE 3
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

QUOTA EXCHANGE RULES

General

1. (1) These rules are to be read with the Consolidated Order.
- (2) The Board reserves the right to limit a Person's participation in the Quota Exchange.
- (3) The Board has no liability or obligation to a Person in the event an exchange is cancelled.
- (4) All Quota exchanges will be held twice monthly, provided that no Quota exchange shall be held in the month of July.

Types of Exchanges

2. There are two types of Quota exchanges, each operated individually:
 - (a) Unused Total Production Quota Exchange; and
 - (b) Used Total Production Quota Exchange;

Eligibility to Transfer

3. (1) A Person intending to Transfer Total Production Quota must first obtain a letter from the Board confirming the amount of Total Production Quota that is available for Transfer including Used and Unused Total Production Quota. The confirmation letter must be requested either orally or in writing (including by fax) well in advance of the deadline for submitting Transfer applications.
- (2) The maximum amount of Used Total Production Quota that can be offered for sale is that set out in the confirmation letter.
- (3) A Person intending to Transfer Total Production Quota who has not obtained a confirmation letter is ineligible to participate in the Quota Exchange.

Producers Leaving the Industry

4. (1) A Producer intending to leave the regulated dairy industry must inform the Board of the date that Total Production Quota production will cease.

- (2) After the month in which final production is reported to the Board by the Vendor receiving the Producer's milk the Producer may offer for sale any remaining Total Production Quota on the next six consecutive Quota Exchanges.
- (3) Any Total Production Quota remaining unsold after the sixth Quota Exchange referred to in the preceding paragraph will be cancelled and will revert to the Board.

Assignment of Total Production Quota Security Agreement

5. If the Board has notice of an assignment of Total Production Quota to a financial institution or other Person, the sale proceeds of an approved Transfer will be paid to the financial institution or other Person, or jointly to the financial institution or other Person and the selling Person as the Board shall determine, unless instructed otherwise by both the financial institution or other Person and the selling Person.

Farm Inspection

6. Upon the receipt of each offer to buy Total Production Quota, the Board will inform the Ministry of Agriculture and Food of the amount of Total Production Quota in each offer. If the buyer's dairy farm is not approved (Dairy Farm Licence) to accommodate the amount of Total Production Quota contained in the offer to buy and already allotted to the buyer, the Board may refuse to process the offer to buy Total Production Quota.

How to Use the Exchange

7. (1) Persons intending to use the Exchange must provide the Board with a completed Total Production Quota Exchange Transfer Application Form which is available from the Board. The form must be signed by the intended seller(s) or buyer(s), or in the case of a partnership, or corporation, by all partners, or by the corporation's authorized signatories. All signatures must be witnessed.
- (2) No offering seller or purchaser of Total Production Quota on an exchange can withdraw an offer to sell or buy Total Production Quota:
 - (a) for the first exchange occurring in a month, after 4:30 p.m. on the first Business Day of the month preceding the month in which the Transfer is to occur;
 - (b) for the second exchange occurring in a month, after 4:30 p.m. on the 14th day of the month preceding the month in which the Transfer is to occur;

unless the Board has in writing allowed the withdrawal of such an offer for a reason which the Board considers appropriate in the circumstances.

- (3) Applications that do not reach the Board offices on time will not be considered for that exchange, and must be resubmitted for a subsequent exchange in order to be considered.
- (4) The Board will notify any Person who is eliminated from the exchange as a result of a late application of that fact.

Total Production Quota Exchange Date

8. Total Production Quota exchanges will be held by the Board on:
 - (a) the 7th day of each month, except July, or if the 7th day is not a Business Day, the first Business Day after the 7th day, at which time the price determined by the exchange market clearing price for that Total Production Quota exchange will be determined; and
 - (b) the 19th day of each month, except July, or if the 19th day is not a Business Day, the last Business Day before the 19th day, at which time the price determined by the exchange market clearing price for that Total Production Quota exchange will be determined.

Effective Date of Transfer

9. Total Production Quota Transfers will be effective on the 1st day of the month following the holding of each Total Production Quota exchange.

Minimum Sale Price

10. (1) The offer to sell price contained in the Transfer application form shall be the minimum price that the seller is prepared to accept for the Total Production Quota being offered for sale, and must be expressed as a price divisible by \$0.25.
 - (2) If the market clearing price is below the minimum price contained in the Transfer application, the Total Production Quota will not be Transferred.
 - (3) If the market clearing price is equal to or greater than the minimum price contained in the Transfer application, then Total Production Quota will be Transferred.

Maximum Purchase Price

11. (1) The offer to buy price contained in the Transfer application form shall be the maximum price that the buyer is prepared to pay for Total Production Quota being offered for sale, and must be expressed as a price divisible by \$0.25.

- (2) If the market clearing price is above the maximum price contained in the Transfer application, Total Production Quota will not be Transferred.
- (3) If the market clearing price is equal to or less than the maximum price contained in the Transfer application, Total Production Quota will be Transferred.

Calculation of the Market Clearing Price

12. The market clearing price shall be calculated for each Total Production Quota exchange by matching the prices contained in the offers to sell and the cumulative amounts of Total Production Quota being offered for sale, with the prices contained in the offers to buy and the cumulative amounts of Total Production Quota contained in the offers to buy. Notwithstanding the foregoing, in the event that:
 - (a) the minimum selling price for Total Production Quota offered by successful participating sellers is lower than the lowest maximum buying price offered by successful participating buyers sufficient to purchase all Total Production Quota offered for sale at such lower price; and
 - (b) the cumulative amount of Total Production Quota offered for sale and the cumulative amount of Total Production Quota offered to purchase have not changed;

the market clearing price shall be that lowest maximum buying price offered for all such Total Production Quota notwithstanding that no successful participating sellers had offered to sell at that lowest maximum buying price.

Transfer of Total Production Quota

13. If there is insufficient Total Production Quota offered for sale in any monthly Total Production Quota Exchange to meet all offers to buy Total Production Quota on that exchange, then the available Total Production Quota will be Transferred to each buyer on a percentage basis - i.e. if there is enough Total Production Quota offered for sale to fill 95% of the offers to buy, then each offer to buy will be 95% filled.

More than One Offer to Sell or Offer to Buy

14. (1) A Person may submit up to three offers to sell or offers to buy on each exchange.
- (2) A Person may offer to sell varying amounts of Total Production Quota at varying prices on the same exchange, but the total amount of Total Production Quota offered for sale must not exceed the amount of Total Production Quota that the Person has available for Transfer.

- (3) A Person may offer to buy varying amounts of Total Production Quota at varying prices on the same exchange, but that Person must have a farm that is approved (Dairy Farm Licence) to produce that much Total Production Quota.

Minimum Amount of Total Production Quota for Offer to Sell

15. Except when a Producer is leaving the regulated dairy industry and has ceased production:
 - (a) The minimum amount of Unused Total Production Quota which may be contained in an offer to sell is 100 kilograms.
 - (b) The minimum amount of Used Total Production Quota which may be contained in an offer to sell is 100 kilograms.

Minimum Amount of Total Production Quota for Offer to Buy

16. (1) The minimum amount of Unused Total Production Quota which may be contained in an offer to buy is 100 kilograms.
- (2) The minimum amount of Used Total Production Quota which may be contained in an offer to buy is 100 kilograms.

Security

17. (1) Every offer made by a licensed Producer to buy Total Production Quota must be accompanied with a cheque(s) drawn on a bank account of such offering buyer, dated the same day as the application, and made payable to the British Columbia Milk Marketing Board - In Trust, in an aggregate amount equal to or in excess of ten percent (10%) of the full value of the offer to buy.
- (2) Every offer to buy Total Production Quota made by a Person who is not a licensed Producer at the time of such offer must be accompanied with:
 - (a) a cheque(s) drawn on a bank account of such Person, dated the same day as the application, and made payable to the British Columbia Milk Marketing Board - In Trust, in an aggregate amount equal to or in excess of ten percent (10%) of the full value of the offer to buy; and
 - (b) a letter from a responsible financial institution which indicates that the Person making such offer(s) to buy Total Production Quota has made the necessary financial arrangements to purchase the full value of the Total Production Quota set out in the offer(s) to purchase.

- (3) If a licensed Producer offering to buy Total Production Quota on the exchange provides with their offer(s) a cheque(s) for a total amount greater than \$100,000.00 or if the cheque(s) which such licensed Producer intends to provide to the Board for the balance of the purchase price required for their purchase of Total Production Quota will be for an amount which will exceed \$100,000.00, then the offer(s) to buy must also be accompanied with a letter from a responsible financial institution which indicates that the licensed Producer making such offer(s) to buy Total Production Quota has made the necessary financial arrangements to purchase the full value of the Total Production Quota set out in the offer(s) to purchase.
- (4) Multiple offers to buy may be accompanied by a single cheque provided the amount of same is equal to or in excess of ten percent (10%) of the full value of the multiple offers to buy.
- (5) Any monies received by the Board hereunder shall be paid to the Board - In Trust as a down payment towards the purchase price of Total Production Quota purchased under the exchange and such monies shall be non-refundable except in the case where the offer(s) to buy is withdrawn as permitted by these rules or the offer(s) to buy is unsuccessful and the Board cannot make any claims against such down payment as permitted herein.
- (6) Any monies received by the Board hereunder will be placed in a separate bank Total Production Quota exchange trust account and will be used solely for the purpose of settling accounts between sellers and buyers.
- (7) Subject to these Rules, any excess monies other than interest earned on the account will be returned to the buyer(s) entitled to same.
- (8) Any interest earned on the account and any monies forfeited by an offering buyer and obtained by the Board in accordance with these Rules will be disbursed in accordance with motions passed at a general meeting of licensed Producers provided that the motions are not inconsistent with the Consolidated Order, including these Rules.
- (9) If a cheque provided to the Board hereunder becomes non-negotiable by reason of insufficient funds, stop-payment or otherwise:
 - (a) the application(s) made by such Person providing such non-negotiable cheque shall be considered as withdrawn by such Person;
 - (b) the Board shall not consider for that Total Production Quota exchange any of the applications made by such Person providing the non-negotiable cheque(s); and
 - (c) the Board reserves the right to claim from such Person the whole of their down payment made as damages suffered by the Board.

- (10) The Board shall advise any Person so eliminated from the exchange as a result of a non-negotiable cheque of that fact.

Notification and Payment

18. (1) Once the outcome of all the Total Production Quota Exchanges for a month are known, all participating Persons will be notified of the results. Persons who bought or sold Total Production Quota will be provided payment statements. Persons who successfully bought Total Production Quota shall then be required to deliver to the Board, on or before 4:30 p.m. of the 23rd day of the month before Transfer is to take place (or on the first Business Day following the 23rd day of that month if the 23rd day is not a Business Day), their cheque(s) for the amount equal to the balance of the purchase price required for their purchase of Total Production Quota.
- (2) Any monies paid to the Board by cheque from a Person not successful in buying Total Production Quota shall be returned to that Person.
- (3) If a Person successful in buying Total Production Quota fails to deliver the cheque(s) to the Board before the expiry of the deadline set out herein, or if any cheque(s) delivered to the Board cannot be negotiated by the Board by the 2nd to last Business Day of the month in which the Transfer is to occur, then no Total Production Quota shall be Transferred to such Person. The amount of Total Production Quota sold by the successful sellers will be reduced proportionately by the amount of Total Production Quota not Transferred to such Person. At the sole option of the Board, the down payment made by such Person will either be forfeited to the Board or returned to such Person. The Board shall advise any Person not receiving Total Production Quota by reason of that Person's non-negotiable cheque that:
- (a) no Total Production Quota is being Transferred to such Person; and
- (b) the 10% down payment made has been forfeited to the Board or is being returned to such Person.
- (4) Any Person providing the Board with a cheque(s) which cannot be negotiated by the Board shall be liable to the Board for:
- (a) all costs incurred by the Board as a result of such non-negotiable cheque(s), including but not limited to all banking charges and legal costs; and

- (b) damages equal to the amount of the cheque(s) provided and if such cheque(s) cannot be negotiated by the Board so that the Board has not received the monies representing the down payment forfeited, the Board may pursue all remedies available to it at law, including set-off, to recover from such Person damages equal to the aggregate of such amount forfeited and all legal costs incurred in pursuing such remedies;
- (5) Payment to a successful seller will be calculated by multiplying the Market Clearing Price for an exchange by the amount of Total Production Quota sold by that seller on that exchange.
- (6) Payment will be made by cheque drawn on the Total Production Quota exchange trust account post dated to the last Business Day of the month in which the sale occurred, and sent by registered mail to the address shown on the Total Production Quota Transfer application form subject to the Assignment of Total Production Quota Security provisions above. Should the amount of Total Production Quota sold by successful sellers be reduced by reason of subsection (4), then it may be necessary for the Board to place stop-payment on any cheques already issued to successful sellers and to issue new cheques to successful sellers.
- (7) The results of each Total Production Quota Exchange will be published monthly by the Board to all Producers and Persons participating in the exchange.

**SCHEDULE 4
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

**MINIMUM PRICES FOR CLASSES OF MILK
EFFECTIVE OCTOBER 1, 2009**

CLASS OF MILK	BUTTERFAT PRICE \$/Kg	PROTEIN PRICE \$/Kg	OTHER SOLIDS PRICE \$/Kg
Class 1(a)	\$5.3000	\$7.5866	\$7.5866
Class 1(b)(i)	\$5.3000	\$8.9655	\$8.9655
Class 1(b)(ii)	\$2.9955	\$1.6590	\$1.6590
Class 1(c)	Contract by contract basis in accordance with Western Milk Pool Innovation Program		
Class 1(d)	\$7.5339	\$5.2793	\$5.2793
Class 2	\$7.5339	\$5.6447	\$5.6447
Class 3(a)	\$7.5339	\$13.1864	\$0.8940
Class 3(b)	\$7.5339	\$12.9337	\$0.8780
Class 4(a)	\$7.5339	\$5.2463	\$5.2463
Class 4(a)(i)	\$7.5339	\$2.6000	\$2.6000
Class 4(b)	\$7.5339	\$5.2463	\$5.2463
Class 4(c)	Contract by contract basis in accordance with Western Milk Pool Innovation Program		
Class 4(d)	\$7.5339	\$5.2463	\$5.2463
Class 4(d)(i)	\$7.5339	\$5.2463	\$5.2463
Class 4(m)	Contract by contract basis		
Class 5(a)	\$2.9955	\$4.7612	\$0.2380
Class 5(b)	\$2.9955	\$1.6590	\$1.6590
Class 5(c)	\$3.0000	\$1.6590	\$1.6590
Class 5(d)	***	***	***

*** As determined from time to time by agreement with the Canadian Dairy Commission.

FLUID MILK CLASSES are deemed to have constant PROTEIN and OTHER SOLIDS (Kg/HI) as shown.

	Class 1(a)	Class 1(b)(i)	Class 1(b)(ii)	Class 1(c)	Class 1(d)
Protein	3.3551	2.8391	**	3.3141	3.3461
Other Solids	5.6212	4.7567	**	5.5526	5.6061

** Processors to be billed based on the actual usage of protein and other solids.

MINIMUM ADVANCE PAYMENT
TO BE MADE BY POOL PARTICIPANT VENDORS
EFFECTIVE OCTOBER 1, 2009

\$58.3000 per hectolitre of skim milk
\$5.3000 per kilogram of butterfat

MINIMUM ADVANCE PAYMENT
TO BE MADE TO POOL PARTICIPANT PRODUCERS
EFFECTIVE OCTOBER 1, 2009

<p>\$58.3000 per hectolitre of skim milk contained in the lesser of:</p> <p>A. The number of litres calculated as follows:</p> <p style="text-align: center;"><i>$\frac{(\text{Minimum Daily TPQ} * 15) + \text{Unused Available Margin}^*}{\text{Producer's current Butterfat Test}}$</i></p> <p style="text-align: center;">OR</p> <p>B. 95% of the number of litres of Qualifying Milk actually Delivered during the previous month divided by the number of days shipped for the previous month and multiplied by 15.</p>
<p>\$5.3000 per kilogram of butterfat calculated on the lesser of:</p> <p>A. The number of kilograms calculated as follows:</p> <p style="text-align: center;"><i>$(\text{Minimum Daily TPQ} * 15) + \text{Unused Available Margin}^*$</i></p> <p style="text-align: center;">OR</p> <p>B. 95% of the number of kilograms of butterfat contained in the Qualifying Milk actually Delivered during the previous month divided by the number of days shipped for the previous month and multiplied by 15.</p>

* As recorded on the PRODUCER'S Monthly Statement for the preceding month.

**SCHEDULE 5
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

PROTEIN AND OTHER SOLIDS FORMULA

Step One

Calculate the pure protein test value:

Pure Protein Test Value = kilograms of protein in raw milk ÷ [total litres of raw milk - (kilograms of butterfat in raw milk ÷ butterfat density)]

Calculate the pure other solids test value:

Pure Other Solids Test Value = kilograms of other solids in raw milk ÷ [total litres of raw milk - (kilograms of butterfat in raw milk ÷ butterfat density)]

Step Two

Calculate the skim milk equivalent for each class:

Skim Equivalent for Class "Y" = litres of milk in Class "Y" - (kilograms of butterfat in milk of Class "Y" ÷ butterfat density)

Step Three

Calculate the actual component utilization for each class:

Protein Utilization for Class "Y" = *Skim Equivalent for Class "Y"* x *Pure Protein Test Value*

Other Solids Utilization for Class "Y" = *Skim Equivalent for Class "Y"* x *Pure Other Solids Test Value*

Step Four

Calculate the accounting value for each class:

For Classes 1, 2 and 4:

Other Solids Accounting Value for Class "Y" = *skim value per hectolitre* ÷ (*Protein Utilization for Class "Y"* + *Other Solids Utilization for Class "Y"*)

Protein Accounting Value for Class "Y" = skim value per hectolitre ÷ (Protein Utilization for Class "Y" + Other Solids Utilization for Class "Y")

For Class 3:

Protein Accounting Value for Class 3 = [skim value per hectolitre - (Other Solids Utilization for Class 3 x Other Solids Accounting Value for Class 3)] ÷ Protein Utilization for Class 3

**SCHEDULE 6
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

LEVIES

Producer Levies

1. Levies are fixed and imposed on each Producer as follows:
 - (a) \$0.21 per hectolitre of milk or cream Delivered by a Producer, for administration.

2. A marketing costs and losses levy is fixed and imposed on Producers as follows:
 - (a) where the Producer is situate in the Bulkley Valley:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$9.83 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (b) where the Producer is situate in the Cariboo:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$7.51 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (c) where the Producer is situate in the Fraser Valley:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$0.00 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (d) where the Producer is situate in the Kootenays:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and

- (ii) \$6.52 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (e) where the Producer is situate in the Okanagan:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$3.18 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (f) where the Producer is situate in the Peace River:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$4.74 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (g) where the Producer is situate in Vancouver Island North:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$4.05 per hectolitre of milk or cream Delivered by that Producer:
 - A. in excess of 100% of that Producer's within quota production as determined by the Board; and
 - B. To a Dairy Plant not situate within Vancouver Island North or Vancouver Island South.
- (h) where the Producer is situate in Vancouver Island South:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck; and
 - (ii) \$3.65 per hectolitre of milk or cream Delivered by that Producer:
 - A. in excess of 100% of that Producer's within quota production as determined by the Board; and
 - B. To a Dairy Plant not situate within Vancouver Island North or Vancouver Island South.

- (i) where the Producer is situated in a Remote Region, the Producer shall pay the marketing costs and losses levy applicable in the next closest region, plus the greater of:
 - (i) \$100.00 for each Delivery of milk or cream; or
 - (ii) \$2.30 per Transporter route kilometre for each Delivery of milk or cream, calculated at the distance between the Producer's dairy farm and the closest border of the next closest region.
- 3. An annual levy of \$190.00 is fixed and imposed on each Producer operating under:
 - (a) a Class "C" Producer Licence and a Class "C-FED" Producer Licence; or
 - (b) a Class "D" Producer Vendor Licence;

Vendor Levies

- 4. An administration levy is fixed and imposed on each Vendor holding a Class "A" and Class "A-FED" Vendor Licence, or a Class "B" Vendor Licence, in the amount of \$0.145 per hectolitre on Deliveries of milk or cream received for processing and processed.
- 5. An accommodation levy is fixed and imposed on each Vendor holding a Class "A" and Class "A-FED" Vendor Licence, or a Class "B" Vendor Licence, in the amount of \$0.30 per hectolitre on Deliveries of milk or cream received for processing and processed.
- 6. An annual levy of \$190.00 is fixed and imposed on each Vendor operating under:
 - (a) a Class "A" Vendor Licence and a Class "A-FED" Vendor Licence; or
 - (b) a Class "B" Vendor Licence.
- 7. A marketing costs and losses levy is fixed and imposed on each Vendor in the amount of \$1.28 per hectolitre of milk or cream reported or otherwise properly reportable by the Vendor as a Class 1(a), Class 1(b)(i) or Class 1(c) product.

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