



Hopper Farms t/as Maleny Dairies  
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 ABN 42 616 103 774  
 www.malenydairies.com

Agreement number 20200601

Farmer details	Processor details
<b>Farmer's Name:</b> <b>ACN/ABN (if applicable):</b> <b>Address:</b> <b>Email:</b> <b>Phone:</b>	<b>Maleny Dairies</b> <b>ABN: 42 616 103 774</b> <b>70 McCarthy Road, Maleny 4552</b> <b>Email: rawmilk@malenydairies.com</b> <b>Phone: 07 5494 2392</b>
<b>1. Agreement</b>	<ol style="list-style-type: none"> <li>This Agreement sets out the terms and conditions on which the Maleny Dairies is prepared to buy milk from the Farmer, as required by the <i>Competition and Consumer (Industry Codes-Dairy) Regulations 2019 (Code)</i>.</li> <li>The Farmer and Processor must always deal with each other in good faith.</li> <li>For the term of this Agreement, the Farmer agrees to supply, and the Processor agrees to buy, milk of the type, quantity, quality and specifications set out in this Agreement for the prices stated in, or calculated in accordance with, this Agreement.</li> <li>This Agreement is comprised of these terms, the Schedule, and the Annexures.</li> <li>This Agreement (including its Schedule and Annexures) contains the entire agreement between the parties in relation to their subject matter and supersedes all previous agreements, understandings, communications, and representations on the subject matter.</li> <li>The parties will keep a record, or a copy of a record, of this Agreement for at least six years following the end of the Term.</li> </ol>
<b>2. Term of Agreement</b>	<ol style="list-style-type: none"> <li>This Agreement commences on _____ and will end on _____ (<b>Term</b>), unless terminated earlier by written agreement by the parties or under clauses 14.4, 15 or 16.</li> <li>If the Term of this Agreement under clause 2.1 is longer than 3 years, the Farmer has one option to extend the Term by 12 months by giving written notice to Maleny Dairies, the Farmer must give written notice under this clause no earlier than 30 days before, and no later than 7 days before, the end of the Term.</li> <li>If the Term of this Agreement under clause 2.1 is more than 1 year and 3 years or less:             <ol style="list-style-type: none"> <li>Maleny Dairies shall in writing at least 90 days prior to the end of the Term, notify the Farmer of the Maleny Dairies intention to renew, extend or end the Term; and</li> <li>where Maleny Dairies informs the Farmer of an intention to extend or renew the Term the Farmer shall within 30 days notify Maleny Dairies of their intention to agree to or reject the proposal; and</li> <li>if Maleny Dairies or Farmer does not provide written notices to each other regarding renewal or extension of this Agreement, this Agreement will be deemed to continue until terminated by either party with not less than 90 days' notice of the termination (or such shorter period of termination as is agreed by the parties in writing).</li> </ol> </li> </ol>
<b>3. Quantity of milk</b>	<p>This Agreement is for: <i>(tick one)</i></p> <p><input type="checkbox"/> The exclusive supply of all the milk produced by the Farmer during the Term. If this option applies, the parties agree that:</p> <ol style="list-style-type: none"> <li>there will be no maximum amount of milk that the Farmer must supply to Maleny Dairies under this Agreement; and</li> <li>the minimum price payable for a specified amount of milk during the term must not be greater than the price for milk supplied more than that amount.</li> </ol> <p><input type="checkbox"/> _____ [agreed amount]. If this option applies, Maleny Dairies agrees to accept, and pay for, a quantity of milk which is up to 10% more or 10% less than the agreed amount specified in recognition of the exigencies of production.</p> <p><input type="checkbox"/> _____ [agreed amount] with Maleny Dairies having first right of refusal to purchase milk from the Farmer more than the agreed amount at the price stipulated in clause 6. This Agreement is an exclusive supply contract until Maleny Dairies declines to purchase the excess milk.</p>
<b>4. Quality and sampling standards</b>	<ol style="list-style-type: none"> <li>Unless otherwise agreed in writing, the quality of milk provided by a Farmer must comply with quality specifications in Annexure 1. If the parties agree in writing on updated quality specifications during the Term, this Agreement is amended accordingly with effect from the date of that agreement.</li> </ol>

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2. Maleny Dairies will undertake the sampling procedures and volume accuracy assurances in Annexure 1 in relation to milk supplied by the Farmer.

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**5. Supply of milk**

1. These terms apply in the following circumstances:

Maleny Dairies intends to purchase approximately 15,500,000 litres of milk in total in FY2022/23. 12,500,000 is being supplied under current milk supply agreements. As Maleny Dairies is looking to purchase additional milk, our prerequisites are:

- (a) Butterfat range not to fall below 4% (weight/volume) Protein not to fall below 3.1% and
- (b) The Farm must have vat space for up to 3 days of volume and
- (c) The farms location should be that which enables Maleny Dairies to pick up the milk within its Tanker Schedule.

2. Unless otherwise agreed in writing, Maleny Dairies is responsible for arranging the collection of the milk at its cost.

3. The Farmer will supply milk, and Maleny Dairies will collect milk, at the following times:

First supply date: \_\_\_\_\_ Last supply date: \_\_\_\_\_

Collection address: \_\_\_\_\_

Days for supply:  Mon  Tue  Wed  Thu  Fri  Sat  Sun  ALL

Hours for supply: after \_\_\_\_\_ and before \_\_\_\_\_ on the agreed days.

4. When Maleny Dairies collects milk at the days and times stated in subclause 5.3, it will provide the Farmer, as soon as practicable after Maleny Dairies tests the milk, with written documentation that identifies and accurately describes:

- (a) sampling tests taken and test results in relation to milk collected;
- (b) quality of milk collected;
- (c) quantity of milk collected; and
- (d) Milk Supply Agreement Number under which milk is collected.

5. Test samples are to be collected from a point as close as reasonably practicable to the coupling at the time milk is transferred from vat to Maleny Dairies milk truck.

6. Maleny Dairies will test milk at its expense.

7. Maleny Dairies' sample will be tested within 2 working days of collection of the milk. Any test result exceeding this period may not be relied upon by Maleny Dairies to make any assertion regarding quality of the milk received.

8. Maleny Dairies will inform the Farmer of test results as soon as practicable but, in any instance, not more than 3 calendar days after the sample is taken.

9. Maleny Dairies will inform the Farmer in writing of the test results.

10. To avoid adverse test results the Farmer and Maleny Dairies will take all necessary steps to ensure equipment, couplings, hoses, or any other equipment associated with the transfer of milk from the vat are clean, well maintained, and serviceable.

11. Supply of the milk occurs when the milk passes through the coupling on the hose of the milk supply truck, or other transport device, attached to the Farmer's farm vat. Maleny Dairies becomes the owner of the milk when the hose is decoupled from the truck and the supplied milk is in the truck's tank or other transport device.

12. Losses arising after transfer of ownership shall be borne by the owner of the milk at that time.

13. Maleny Dairies will abide by all reasonable requests and directions of the Farmer regarding access to the farm and farm vat.

14. The Farmer will make available safe access to the farm and vat to enable Maleny Dairies to collect the milk.

15. Maleny Dairies will take all reasonable measures to ensure milk collected from the vat has had a reasonable time for the milk to be brought to a temperature between 0 and 5 degrees Celsius. Where milk is collected at a higher temperature because of early collection after milking, no action lies against the Farmer.

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**6. Price**

Maleny Dairies will pay the Farmer for milk on the following basis: (tick as applicable)

Maleny Dairies will pay the Farmer the minimum price for the milk set out in Item 1 of the Schedule. Payment for all milk for the calendar month will be made on the 15<sup>th</sup> day of the following month.

Maleny Dairies will pay the Farmer for the milk in accordance with the schedule of yearly minimum prices in Item 2 of the Schedule. Payment for all milk for the calendar month will be made on the 15<sup>th</sup> day of the following month.

Maleny Dairies will pay the Farmer for the milk in accordance with the schedule of monthly minimum prices in Item 3 of the Schedule. Payment for all milk for the calendar month will be made on the 15<sup>th</sup> day of the following month.

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**7. Levies**

Where any levy applies to the milk: (tick one)

Maleny Dairies will collect and pay the levy on behalf of the Farmer. The amount of levy due will be deducted from the payment to the Farmer.

The Farmer will pay the levy.

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**8. Loyalties**

Maleny Dairies does not engage in Loyalty Payments or New Milk Payments.

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<p><b>9. Services and fees</b></p>	<p><input type="checkbox"/> (Tick if applicable) During the Term, Maleny Dairies will provide the Farmer services for the fees identified in Annexure 3.  [Fees must be specified for first year of the Agreement either as a single fee for the service that applies throughout that first year or as a schedule of monthly fees for that period, in accordance with section 29(3) of the Code. If the Agreement is longer than one year, a Processor must specify how fees will be determined after the first year, in accordance with section 29(2) of the Code.]  The amount of fees due will be deducted from the payment to the Farmer.  Every 12 months the Processor will give the Farmer written notice of any fees for the services it provides to the Farmer, which are payable by the Farmer and which the Processor will deduct from the payment owed by the Processor to the Farmer, in accordance with section 29(2)(b) of the Code. [Remove if the Term is for one year or less]</p>
<p><b>10. Payment method</b></p>	<p>Maleny Dairies will pay the Farmer for the purchase of the milk in accordance with this Agreement by EFT Bank details:  BSB: _____ Account: _____ Account name: _____</p>
<p><b>11. Rejection of milk</b></p>	<ol style="list-style-type: none"> <li>1. Maleny Dairies may reject milk that the Farmer supplies in the following circumstances: <ol style="list-style-type: none"> <li>(a) If the milk does not meet the [minimum] quality requirements described in clause 4.</li> <li>(b) If the Processor reasonably suspects or is aware that the milk has been supplied contrary to Law.</li> </ol> </li> <li>2. Maleny Dairies will notify the Farmer’s contact person in accordance with clause 17 as soon as practicable following supply, if it intends to reject any milk (<b>Rejection Notice</b>) because of a failure to comply with clause 11.1. As soon as practicable following the relevant supply of milk, Maleny Dairies will also advise the Farmer in writing of the rejection, reasons for the rejection and consequences for the Farmer of the rejection including consequences identified in clause 11.3.</li> <li>3. Where Maleny Dairies rejects the milk by giving the Rejection Notice, the Farmer is responsible for recovery and/or movement and disposal of the milk. Maleny Dairies has no capacity to hold rejected milk it will dispose of the rejected milk in the manner it deems appropriate at the Farmers expense.</li> <li>4. Where Maleny Dairies or the Farmer become aware of: <ol style="list-style-type: none"> <li>(a) any possible actual or potential defect, contamination, fault, or other condition in any milk supplied;</li> <li>(b) any matter that may impact on compliance with any health standard, public policy or code;</li> <li>(c) any matter which may affect compliance with any law or regulatory health standard,</li> </ol> Maleny Dairies or the Farmer must, as soon as possible, advise the other party of the nature of the defect or issue, details of collections impacted, and actions taken or proposed to diminish the defect’s impact.</li> <li>5. Maleny Dairies and the Farmer must co-operate to diminish any risk to the public from the defect including compliance with laws, assisting each other in investigating the source of the defect and taking such remedial action as necessary to ameliorate the defect’s impact. Such steps include assisting government authorities and disseminating information to the public where necessary.</li> </ol>
<p><b>12. Conflicting terms</b></p>	<ol style="list-style-type: none"> <li>1. The Code requires that transactions between Maleny Dairies and the Farmer must be conducted pursuant to a Milk Supply Agreement. To the extent of any inconsistency between the terms of this Agreement and the Code, the Code prevails. To the extent of any ambiguity between a term of this Agreement and the Code, the term should be construed in a way that complies with the Code.</li> <li>2. To the extent that there is inconsistency between these terms (clauses 1 to 25) and any terms in the Schedule or the Annexures, these terms shall prevail.</li> </ol>
<p><b>13. Statement for reporting period</b></p>	<p>Maleny Dairies will issue a statement to the Farmer within 18 days of the end of each month. The statement will specify <b>dealings</b> with the milk each month.   <b>Dealings</b> include the quality and quantity of milk purchased by Maleny Dairies, the date(s) of the purchases, price for the milk, where multiple methods are agreed for calculating the milk price, the method applied for calculating the milk price for a particular purchase, any fees or levies deducted from payment and the date the milk was delivered.</p>
<p><b>14. Variation</b></p>	<ol style="list-style-type: none"> <li>1. Except as provided under this clause 14, Maleny Dairies and the Farmer may only agree to vary this Agreement by writing signed by both parties, or by a written notice of offer to vary the Agreement and a written notice of acceptance. Any offer, acceptance or signed variation must state the Milk Supply Agreement Number to which it refers and the date the variation is to take effect.</li> <li>2. Maleny Dairies can only unilaterally vary the Milk Supply Agreement: <ol style="list-style-type: none"> <li>(a) on the occurrence of <i>exceptional circumstances</i>, by reducing the minimum price for milk stipulated in the Milk Supply Agreement (<b>Step Down</b>), where: <ol style="list-style-type: none"> <li>(i) the <i>exceptional circumstances</i> are temporary and involve an extraordinary event (including an emergency or change in market conditions) that: <ol style="list-style-type: none"> <li>a. occurs outside Australia; and</li> <li>b. has a highly significant effect on supply, demand, or costs in the dairy industry; and</li> <li>c. is not caused by a decision made by Maleny Dairies;</li> </ol> </li> <li>(ii) where the unilateral variation resulting in the Step Down is unavoidable because of the exceptional circumstances;</li> <li>(iii) where either: <ol style="list-style-type: none"> <li>a. the Maleny Dairies has taken or will take all reasonable steps to prevent or limit the impact of the exceptional circumstances on itself; or</li> <li>b. there are no such steps Maleny Dairies can take; and</li> </ol> </li> </ol> </li> </ol> </li> </ol>

- (b) if there is a change in Commonwealth, State or Territory law and then only to the extent necessary to comply with the changed law but without reducing the minimum price under the Milk Supply Agreement.
- 3. Maleny Dairies, in wishing to vary this Agreement under clause 14.2(a) must give the Farmer and the Australian Competition and Consumer Commission 30 days' written notice of the following:
  - (a) The Step-Down; and
  - (b) the date the step-down will take effect (**Step-Down Date**). The Step-Down Date must not be a date earlier than the time that Maleny Dairies' variation under clause 14.2 occurs.
  - (c) the exceptional circumstances giving rise to the variation (see clause 14.2(a)(i) to (iii)); and
  - (d) either the reasonable steps Maleny Dairies has taken or will take to prevent the impact of the exceptional circumstances or if it cannot take any steps; and
  - (e) why the minimum price reduction is unavoidable; and
  - (f) the period to which the minimum price reduction applies.
- 4. The Farmer has the right to terminate the Milk Supply Agreement within 21 days of receipt of a notice under clause 14.3, which termination will have effect from the Step-Down Date.
- 5. The Farmer may rescind any termination under clause 14.4 before the end of the 21-day period referred to in clause 14.4.
- 6. Any variation under this clause 14, does not allow variation that does not comply with the Code.
- 7. Any variation agreed to by the parties is limited to compliance with the law or the Code. If the variation to the Agreement is inconsistent with a law or the Code, the law or Code will prevail to the extent of the inconsistency.
- 8. An agreed variation which is not written in the first instance will be written and transmitted by Maleny Dairies to the Farmer within 30 days. Where the supply period of the Agreement is 90 days or longer Maleny Dairies must make all reasonable efforts to obtain written acknowledgement that the record is a complete and accurate record of the variation from the Farmer.

#### 15. Cooling-Off

The Farmer may terminate the Agreement in writing within the cooling-off period being within 14-days of the execution date of this Agreement.

#### 16. Termination

1. This Agreement may be terminated by consent of both parties. Where the parties' consent to termination Maleny Dairies must provide a written record to the Farmer within 30 days.
2. Either party may terminate this Agreement immediately if:
  - (a) the other party to the Agreement has committed a fundamental or material breach of the Agreement and has not remedied it in 30 days after being requested to do so by written notice; or
  - (b) the other party has committed a material breach which cannot be remedied
3. The termination of this Agreement must be in writing with accompanying reasons for the termination as well as the date upon which the termination takes effect, to be provided as soon as practicable after the termination.
4. A Farmer may terminate this Agreement by giving 180 days' notice to Maleny Dairies if the Farmer intends to exit the dairy industry.

#### 17. Complaints and Disputes

1. All disputes are subject to the provisions of the Code relating to disputes.
2. Where a dispute arises out of or in connection with performance of this Agreement both parties, acting in good faith, will use all reasonable endeavours to bring the issue to the attention of the other party in a timely fashion and in any instance not more than 30 days after the event occurs which leads to the dispute.
3. Notification will include:
  - (a) nature of the complaint
  - (b) that the aggrieved party wishes to resolve the dispute in accordance with this Agreement
  - (c) desired resolution.
4. The party receiving the complaint will in writing notify the other party that they have received the complaint within five days and articulate steps intended to resolve the dispute.
5. Any complaints arising under this Agreement must, in the case of Maleny Dairies, in the first instance be referred to Maleny Dairies Internal Complaints Handling Officer for resolution under Maleny Dairies' complaint handling procedure set out in Annexure 2.
6. Where a notification of a dispute is made to the other party to this Agreement both parties will act, in good faith, to resolve the dispute.
7. If after attempting to resolve the dispute, and in any instance not before the elapse of 60 days after notification, the parties are not reconciled, both parties agree to subordinate themselves to a mediation process as articulated in the Code.
8.  (*tick if it applies*) Any disputes arising under or in any way resulting from this Agreement which cannot be resolved in mediation under clause 17(7) shall be referred to arbitration.
9. The costs of a mediation and/or arbitration will be borne by each party equally, unless otherwise agreed. If a party seeks legal representation in the mediation/arbitration process, such legal costs will be borne by that party.
10. Nothing in this dispute resolution procedure will prevent a party seeking an injunction.

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**18. Contact details for notices, disputes, variations and rejections**

The details of the primary contact people for Maleny Dairies and the Farmer are:

Farmer's contact name:	Maleny Dairies Raw Milk Manager Mobile: TBA Email: TBA
Telephone:	
Mobile:	For Maleny Dairies Internal Complaints Handling Maleny Dairies Lab Technician Telephone: TBA
Email:	Email: TBA

These individuals may be contacted, by telephone, mobile, text, email, or any other mode of communication contemplated this clause, in the event of a contract notice, variation, dispute or rejection of milk by Maleny Dairies or the Farmer.

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**19. Guarantees & Warranties**

1. Maleny Dairies guarantees the testing procedure used to test milk samples.
2. Maleny Dairies guarantees accuracy of volumetric measuring of milk collected.
3. Maleny Dairies guarantees cleanliness of all equipment upon taking ownership of the milk.
4. Both Maleny Dairies and the Farmer warrant that they are possessed of all necessary authorisations, licences, approvals and permits for the conduct of their respective businesses.
5. If a party becomes aware of a wilful breach, false or misleading representation in relation to any warranty under this agreement, they will inform the other party.
6. Both parties respectively warrant that at the date of signing the agreement each party has the power to lawfully execute the agreement and all necessary actions have been taken to authorise the execution of the agreement.

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**20. Indemnities**

1. To the maximum extent permitted by law the Farmer will not be liable to Maleny Dairies should the Farmer fail to provide the required volume of milk during the operational period of this Agreement.
2. Excepting those warranties imposed by statute and this Agreement, the parties exclude all express or implied warranties or representations regarding the milk supplied.
3. The Farmer is not liable to Maleny Dairies for any losses of savings or profits incurred by Maleny Dairies arising out of the execution of this agreement except for losses incurred for a positive test to antibiotics in the supply of raw milk.
4. Maleny Dairies indemnifies the Farmer from any unlawful or improper conduct of it or Maleny Dairies employees, agents, or representatives.

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**21. Force Majeure**

1. Except as provided for in clauses 21.3 to 21.7 below inclusive, neither party is liable for a failure to comply with this Agreement or a failure to perform an obligation under this Agreement, except for the payment of money, because that party is unable to perform that function arising out of:
  - (a) an act of God (including an epidemic);
  - (b) natural disaster;
  - (c) an act of terrorism;
  - (d) the outbreak of war;
  - (e) any such other event of such a magnitude as to render reasonable performance impossible (**Force Majeure Event**).
2. Where possible, the party relying on a force majeure must notify the other party as soon as practicable and in writing of the reliance on the force majeure.
3. On the first three occasions during each period commencing 1 July and ending 30 June each year (**Relevant Period**) where:
  - (a) a Force Majeure Event prevents the Farmer from performing its obligation to supply milk that meets the quality specifications in Annexure 1; and
  - (b) that milk can still be bottled and sold by Maleny Dairies within 30 days, Maleny Dairies will pay for the volume of that milk supplied.
4. Clause 21.3 above is subject to the Farmer providing Maleny Dairies with written notice of the Force Majeure Event within 12 hours, and Maleny Dairies satisfying itself of the legitimacy of the Farmer's claim.
5. On the first three occasions during each Relevant Period where:
  - (a) a Force Majeure Event prevents Maleny Dairies from collecting milk from the Farmer; and
  - (b) as a consequence, the Farmer is forced to dump that milk, Maleny Dairies will pay the Farmer for the volume of that milk that would have been supplied but for the failure to collect.
6. For the purposes of clauses 21.3 and 21.5 above, on each subsequent occasion after the third occasion during a Relevant Period, Maleny Dairies is not required to pay the Farmer for the milk, unless otherwise agreed between the parties in writing.
7. For the purposes of clauses 21.3 and 21.5 above, the price to be paid to the Farmer by Maleny Dairies will be calculated using the minimum prices in Schedule 1. The minimum prices will be calculated based on the average TPC and SCC of milk delivered by the Farmer in the three months immediately preceding the Force Majeure Event. In the event that the

Farmer has not previously delivered milk to Maleny Dairies, the price payable will be calculated based on the base price of 60cpl.

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## 22. Confidentiality

1. The parties must keep confidential and must not disclose or make available directly or indirectly to any third party all Confidential Information unless:
  - (a) the disclosure of the Confidential Information is necessary to comply with any laws or the lawful requirements of any public, statutory, governmental, semi-governmental, local governmental or judicial body entity or authority;
  - (b) at the time of the disclosure, the information was in the public domain; or
  - (c) subsequent to the disclosure, the information becomes part of the public domain (other than because of a breach of this clause).
2. The parties must not use, disclose, or access the Confidential Information for any reason except as is necessary to perform this Agreement.
3. At the end of the Term or upon earlier termination or completion of this Agreement, Maleny Dairies must deliver to the Farmer or as it otherwise directs any Confidential Information in its possession that is capable of being delivered. Maleny Dairies must delete, erase, or otherwise destroy any Confidential Information contained in computer memory, magnetic, optical, laser, electronic, or other media in its possession or control which is not capable of delivery to the Farmer or as it directs.
4. For the avoidance of doubt, the parties' obligations in sub-clause 22(1) apply to any information disclosed or obtained in dealing with or resolving the complaint or dispute under this Agreement.
5. For the purpose of this clause **Confidential Information** means the terms of this Agreement and (whether or not in material form and whether disclosed before or after the date of this Agreement) any information of whatever kind relating to a party that is disclosed or becomes known to the other party in the course of their discussions and negotiations regarding or in connection with this Agreement and which:
  - (a) is by its nature confidential;
  - (b) is designated by the party disclosing the information as confidential; or
  - (c) the party receiving the information knows or ought reasonably to know is confidential;but does not include any part of the information that:
  - (d) is generally known to the public at the time of disclosure or becomes generally known to the public through no wrongful act on the part of the party receiving the information;
  - (e) is in the possession of the party receiving the information at the time of disclosure otherwise than as a result of that party's breach of a legal obligation;
  - (f) becomes known to the party receiving the information through disclosure by sources other than the other Party provided that, in so far as is known to that source, it is not prohibited by law or contract from disclosing the information to the party receiving the information;
  - (g) is independently developed by the party receiving the information outside the scope of the relationship with the other party; or
  - (h) is required to be disclosed by court order, subpoena or other law or legal process.

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## 23. General and other matters

1. Without prior and written permission of the other party, neither party will assign this Agreement.
  2. The parties remain independent of each other. Nothing in this agreement may be read down as creating any form of legal relationship beyond a contractual obligation. This contract does not create a partnership, trust arrangement, joint venture, agency, employment relationship or other relationship that is not contractual in nature.
  3. If a party chooses not to demand enforcement of a term of this contract the choice cannot be interpreted as a waiver of the term. An aggrieved party may seek damages or specific performance for breach of this contract.
  4. Subject to compliance with the dispute resolution processes articulated in this contract and the Code, remedies in this Agreement do not exclude remedies available to a party in law or equity.
  5. Expiry or termination of this Agreement does not limit any rights or obligations a party had prior to the expiry or termination.
  6. Clauses which are intended to operate beyond the Term may be relied upon by a party beyond the Term.
  7. Invalidity of a term shall only impact on this Agreement to the extent of the invalidity. Remaining provisions which are capable of execution remain binding on the parties.
  8. Maleny Dairies is liable for any stamp duties arising out of this Agreement.
  9. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
  10. If any clause or part of any clause is in any way unenforceable, invalid, or illegal, it is to be read down to be enforceable, valid, and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.
  11. The expiration or termination of this Agreement does not affect any right that has accrued to a party before the expiration or termination date.
  12. Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Agreement for any reason, will not merge on the occurrence of that event but will remain in full force and effect.
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<b>24. Law and Jurisdiction</b>	This Agreement is governed by the law in force in the state the milk is supplied under clause 5 and the Courts in that State have jurisdiction.
<b>25. Interpretation</b>	<ol style="list-style-type: none"><li>1. A reference to this Agreement or another document means this Agreement or that other document and any document which varies, supplements, replaces, assigns, or novates this Agreement or that other document.</li><li>2. A reference to legislation or a legislative provision includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision.</li><li>3. A reference to a clause, annexure or schedule is a reference to a clause, annexure, or a schedule to or of this Agreement.</li><li>4. Clause headings are inserted for convenience only and do not form part of this Agreement.</li><li>5. The annexures and schedules form part of this Agreement.</li><li>6. A reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity.</li><li>7. A reference to a natural person includes their personal representatives, successors and permitted assigns.</li><li>8. A reference to a corporation includes its successors and permitted assigns.</li><li>9. Related or subsidiary in respect of a corporation has the same meaning given to that term in the Corporations Act.</li><li>10. A reference to a right or obligation of a party is a reference to a right or obligation of that party under this Agreement.</li><li>11. An obligation or warranty on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally.</li><li>12. A reference to a breach of warranty includes that warranty not being complete, true, or accurate.</li></ol>

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This Agreement is deemed to be accepted by signature of both parties or upon the Maleny Dairies receipt of a written notice of acceptance of the Agreement by the Farmer.

**Signed on behalf of the Farmer**  
**(ABN \_\_\_\_\_) by a duly authorised representative:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Signed on behalf of Maleny Dairies**  
**(ABN 42 616 103 774) by a duly authorised representative:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

*Office use only*

Payment Terms accepted: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Farmer details verified by: \_\_\_\_\_

Entered to systems on: \_\_\_\_/\_\_\_\_/\_\_\_\_

Entered to systems by: \_\_\_\_\_



## **Schedule 1**

Item 1: Minimum Price [refer to clause 6, option (a)]

All pricing is calculated at the end of each calendar month based on the **Total Volume of Raw Milk** supplied and the average levels of **Butterfat, Protein, SCC** and **TPC** for the period.

Please note that the value for Buttermilk is calculated weight for volume.

### **BASE PRICE**

There are 3 base price levels which are determined by the value of Butterfat, Protein, SCC and TPC: Out of Specification Milk is where TPC is 50,000 or greater or SCC is 400,000 or greater. If Maleny Dairies elects not to reject the milk then the base price for this milk = 60cpl;

**Specification 1:** Base price for milk where TPC is less than 50,000 and where SCC is less than 400,000 = **0.77cpl**;

**Specification 2:** Base price for milk where TPC is less than 25,000 and where SCC is less than 350,000 and where Butterfat is greater than 3.6% and Protein is greater than 3% = **0.87cpl**

**Specification 3:** Base price for milk where TPC is less than 20,000 and where SCC is less than 310,000 and where Butterfat is greater than 3.8% and Protein is greater than 3.1% = **0.91cpl**

**The Quality Bonuses below are both added to Specification 2 and 3 Milk**

### **QUALITY BONUS 1**

If:

TPC is less than 17,500 and SCC is less than 280,000 = 3cpl

TPC is less than 10,000 and SCC is less than 240,000 = 6cpl

### **QUALITY BONUS 2**

For every 0.10% that Butterfat is over 3.90% Maleny Dairies will pay an additional 0.5 cents per litre.

For every 0.10% that Protein is over 3.20% Maleny Dairies will pay an additional 0.5 cents per litre.

Item 4: Special Conditions: this MSA has no provision for special conditions.

## **Annexure 1: Quality Standards (clause 4)**

### **Quality and Quantity of Milk Supplied.**

#### **Raw Milk Specifications - Maleny Dairies**

##### **Product Description:**

- Fresh milk from healthy cows.

##### **Production Criteria:**

- Age of milk to be less than 72 hours from first milking when processed and packed.
- Produced on local farms that are currently accredited by Safe Food Production Queensland.

##### **Organoleptic Criteria:**

- Fresh taste, free of objectionable or foreign taints.
- Standard odour. Free from objectionable and foreign smells
- Standard texture. Smooth with no clots or lumps.

##### **Microbial Criteria:**

- Total Plate Count: <50,000 cfu/mL.
- Inhibitory substance (Antibiotic) identified as benzyl G penicillin: <0.0015µg/mL.
- Somatic Cell Count: <400,000/mL.

##### **Chemical Criteria:**

- Fat: 38g/L minimum.
- Protein (crude): 31g/L minimum.
- Chemical Residues: Not exceeding the Maximum Residue Limits (MRLs) specified in the Food Standards Code.

##### **Physical Criteria:**

- Colour: Uniform and creamy white. As standard. No unusual colours that could indicate contamination.
- Extraneous Matter: - no visible extraneous matter permitted.

##### **Storage Conditions:**

- Milk shall be protected from physical contamination by dust, pests and other extraneous matter.
- Milk shall be stored and maintained at a temperature  $\leq 5^{\circ}\text{C}$ .

##### **Acceptance of Product:**

- Maleny Dairies reserves the right to reject any product not complying with any of the above criteria, which are based on the Food Standards Code, relevant dairy legislation and Codes of Practice.

### **Testing, sampling procedures and volume accuracy assurances (clause4(2))**

#### **Sampling Procedure**

##### **Smarta Farm Vat Monitoring Equipment**

'Smarta Farm' valves, probes and associated equipment form part of Maleny Dairies procedures. Smarter Farm equipment installed on farm are the responsibility of the farm. The Farmer is in Breach of this Contract should there be any attempt to tamper with, and or remove this equipment. Maleny Dairies is to be notified if there are any issues associated with the equipment.

### **Farm pick up**

- Check and record milk volume in vat;
- Turn on the agitator on the farm vat;
- Check the reading on the milk temperature gauge on the milk vat;
- If the milk temperature exceeds 5°C, check against cooling curve. Contact Raw Milk Manager for direction;
- Take two samples for grading of the milk.
- Grade milk. Milk must be free from foreign matter, taints, odours and any other defects inconsistent with acceptable quality milk. If rejecting vat contact Raw Milk Manager;
- Place sample bottles under drip sampler;
- Pump out the milk
- Ensure all sample containers are labelled with the name/number of the dairy and place in the ice box on the milk tanker;
- Check the floor of the farm vat when empty and contact the Raw Milk Manager for advice if the sediment is considered excessive or there is unusual foreign matter present, and;
- Rinse out the vat with cold water and leave to drain. Turn on vat wash as required.

### **On arrival back at Maleny Dairies with a load of milk**

- Test composite tanker sample for antibiotics using SNAP (SNAPduo ST Plus – IDEXX Laboratories);
- If SNAP sample is positive immediately contact Raw Milk Manager and test individual supplier samples;
- Connect the milk hose from the tankers to the factory's raw milk pump;
- Check that the raw milk storage vat is clean and has been drained and hatch rubber is properly in place and closed;
- Pump out milk and flush hose with water;
- Transfer the milk samples to the factory's laboratory and place in fridge;
- Testing of raw milk samples,
  - SCC & TPC – Invert chilled sample to ensure sample is mixed without aeration. Analyse via Foss Bacsomatic testing machine
  - Fat & Protein – heat sample up to 40°C, invert samples to ensure sample is mixed without aeration. Analyse via Milkoscan Mars analyser;
- Prepare composite of all farm samples for antibiotics using Delvo (Delvotest SP NT - FMCG Industry Solutions Pty Ltd) and place in block incubator. Review Delvo result after 3 hours and 15 minutes).

### **Volume Assurance**

- Printed volume receipt issued for each farm;
- Tanker flow meter verified annually by registered verifier and certificate issued.

## **Annexure 2: Processor's Complaints Handling Process (clause 17)**

**Complaints Fall into 3 categories.**

### **Payment of agreed monies owed:**

1. If you have not received payment by the due date then you are to immediately call the main office line during business hours and ask for the Accounts Payable Officer and notify them of the issue and they will respond promptly.
2. If the Accounts Payable Officer is unavailable then ask to speak with the Finance Manager.
3. If you are not being dealt with to your satisfaction then phone CFO direct. Phone numbers TBA.

### **Complaints regarding our Tanker Driver:**

- Any issue with milk pickup will be dealt with by the Raw Milk Manager, phone TBA.
- If the Raw Milk Manager is unavailable or you are not satisfied with his action please contact the Director of Logistics and Reliability, phone TBA.
- If you are not satisfied with the Director of Logistics and Reliability' response to the issue, then email the issue and your understanding of his response to the COO who will assess the issue, and the business will respond within 48 hours (72 hours on the weekend).

### **Complaints regarding Testing:**

1. Please contact the Raw Milk Manager via email TBA or phone and they will note the issue and will respond within 24 hours (36 hours on the weekend).
2. If you are unhappy with this response please contact the Director of Logistics and Reliability via email or phone TBA.
3. If you are still dissatisfied, then email your issue and your understanding of Maleny Dairies response to the issue to COO at TBA and the business will respond within 48 hours (72 hours on the weekend).

If there are any other issues or complaints that you have with Maleny Dairies, please email the Raw Milk Manager. The Raw Milk Manager will consult on the complaint with the senior executive and the business will respond within 48 hours (72 hours on the weekend).

### **Annexure 3: Processor's services (clause 9)**

A pickup service fee of **\$0.00** + GST per collection of milk

Additional Antibiotic testing:

- During operating hours (Mon-Fri 0500 to 1700) **\$40.00** + GST
- Outside operating hours **\$150.00** + GST