

Milk Marketing Quota Order*

Regulation 59/2006
Registered March 1, 2006

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* This regulation is made under section 24 of the *Dairy Farmers of Manitoba Marketing Plan Regulation*, Manitoba Regulation 89/2004, and is Order No. 1, 2006 of Dairy Farmers of Manitoba

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PART 1
INTERPRETATION

Definitions

1 The following definitions apply in this Order,

"**board**" means Dairy Farmers of Manitoba or the board of directors of Dairy Farmers of Manitoba, or both, as the context may require.

"**catastrophe**" means a situation over which the producer has little or no control and which suddenly affects the production of his or her dairy cows. A catastrophe includes, but is not limited to, a severe illness or the death of a principal day-to-day operator of the milk production business, the sudden death of a significant portion of a dairy herd, the destruction of a producer's facilities by fire or some other cause beyond his or her control, a severe infection of the dairy cows in his or her herd or an uncontrollable disease or a disease which requires the slaughter of the dairy cows by public health authorities.

"**controlling party**" means a person who, directly or indirectly, is the legal or beneficial owner of an aggregate of more than 50% of any class of the issued voting shares of, assets of, or interest in a registered producer.

"**cow**" means a mature female of domestic cattle, species *Bos taurus*.

"**daily quota**" means a base, expressed in kilograms of butterfat per day, allotted to a registered producer by the board.

"**dairy cows**" means cows kept by a registered producer for the purpose of marketing milk from such cows.

"**dairy facility**" means any land, building, structure, and equipment used for producing and marketing milk.

"**dairy year**" means the 12-month period commencing August 1st in each year and ending July 31st in the following year.

"**immediate family**" means an individual's grandfather, grandmother, father, mother, uncle, aunt, husband, wife, child, step-child, brother, sister, nephew, niece, grandchild, step-grandchild and the spouse or common law partner of any of those family members.

"**multi family unit**" means two or more persons who keep dairy cows, in partnership, or in circumstances where there is a sharing by them, whether familial, communal or otherwise, of facilities, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm or individual.

"**new entrant**" means a person who becomes a registered producer in accordance with a system set up under subsections 4(1) to (5).

PART 2

ALLOTMENT OF QUOTA

Application for registration as a producer

2(1) A person may apply to the board for registration as a registered producer.

2(2) Each applicant for registration as a registered producer must be the registered owner or the sole operator of, or must be entitled to become the registered owner or sole operator of, a dairy facility that meets all of the requirements for buildings, equipment, operation, and herd health set out in *The Dairy Act* and the regulations under that Act, and all of the requirements and standards established by the board from time to time.

Allotment of daily quota

3(1) The board may allot a daily quota to a registered producer.

3(2) The board may allot a daily quota conditional upon the acquisition of a dairy facility within a specified period of time.

Allotment to new entrants

4(1) The board may establish a special system which permits a person to enter the dairy industry and to become a registered producer for the first time. In selecting such persons the board may establish a new entrants system for receiving applications from such persons and for selecting such persons from among all applicants. Each application shall be in writing in a form prescribed by the board and must be signed by the applicant and accompanied by the processing fees established by the board and must be delivered to the head office of the board.

4(2) If the board offers to allot a daily quota to a new entrant, and the new entrant does not accept the terms and conditions proposed by the board in making the offer within the time specified by the board, or if the new entrant fails to comply with any term or condition established by the board in making the offer or allotment to the new entrant, the board may withdraw such offer or allotment.

4(3) No person and no multi family unit shall be eligible to be selected for an allotment under this section if that person or that multi family unit is, or at any time within the five years prior to making the application has been, a registered producer or has had an interest, direct or indirect, in a registered producer.

4(4) For the purpose of this section any person who is or was a partner or a shareholder of an entity that is or was a registered producer at one time shall be deemed to have had an interest in that registered producer at that time.

4(5) The fact that

(a) the parent of an individual is or at any time has been a registered producer or has had an interest, direct or indirect, in a registered producer; and

(b) a multi family unit was established from the membership of another multi family unit which is or at any time has been a registered producer or has had an interest, direct or indirect, in a registered producer;

shall not in itself disqualify a person or a multi family unit from being eligible to be selected under this section.

List to indicate daily quota

5 Subject to the provisions of this order, a registered producer's daily quota shall be equal to the number of kilograms of butterfat per day shown opposite his or her

name under the column "daily quota" on the list of registered producers approved by the board on August 1, 2005 as same may be amended by resolution of the board from time to time to reflect alterations or additions or deletions to same.

PART 3

NON-TRANSFERABILITY OF DAILY QUOTA AND PROCEEDS

Daily quota belongs to the board

6 All daily quota belongs to the board.

Daily quota non-transferable by producer

7 No person shall

(a) transfer, assign, or sell a daily quota to another person; or

(b) offer to transfer, assign, or sell a daily quota to another person, or receive payment for a daily quota, or offer to buy a daily quota from a producer, or make a payment to a producer for a daily quota.

Monthly quota exchange system proceeds not transferable

8 No person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment to the receipt of proceeds from the monthly quota exchange system to another person without the prior written consent of the board, unless the assignment is in the course of an arms length commercial borrowing arrangement with a financial institution.

PART 4

PROHIBITIONS

Prohibitions

9(1) Except as authorized by the board in writing, no person shall market milk unless he or she has been allotted a daily quota by the board.

9(2) No person to whom a daily quota has been allotted shall market milk other than milk taken from dairy cows in or on a dairy facility situate on the location that has been specified by the board for the milking of his or her dairy cows.

9(3) No person to whom a daily quota has been allotted shall market milk except to the board.

PART 5

ADJUSTMENTS TO DAILY QUOTA

Adjustments to daily quota

10(1) The board may, by resolution, amend the list referred to in section 5 from time to time

(a) to increase or decrease the daily quota of registered producers on a pro rata basis (or on such other basis as may be determined by the board) to reflect Manitoba's share of market requirements for dairy products in any period of time,

(b) as provided in this Order; or

(c) to otherwise distribute equitably among registered producers a share of the market for milk anticipated to be produced in Manitoba.

10(2) If a producer does not fill 100% of his or her daily quota in the month that it is issued, that portion of unused daily quota that is the difference between the producer's total production for the month and 100% of the producer's total monthly quota shall be set aside as unused quota credits. Unused quota credits may be made available to the producer in a future month when his or her production exceeds the producer's quota.

10(3) No producer shall, at any time, hold unused quota credits in an amount that exceeds the limit set by the board from time to time. Any quota credits in excess of the limit set by the board that are the result of under-utilization of daily quota shall be subject to the provisions of sections 11, 12 and 17 of this Order.

10(4) The board may, upon special request by a registered producer, grant special quota credits in addition to that registered producer's daily quota and unused quota credits in circumstances where the registered producer has suffered a catastrophe. Any special quota credits granted by the board shall be granted subject to specific terms and conditions to be set by the board at the time such credits are granted and may be used by the registered producer when his or her production in any month exceeds the limit set by the board, calculated on the basis of bulk milk pickups.

PART 6

REDUCTION, SUSPENSION, OR CANCELLATION OF DAILY QUOTA

Reduction of daily quota for anticipated undermarketings

11 The daily quota of a registered producer may be reduced for the balance of a dairy year if the producer's marketings during a portion of that dairy year are such that the board anticipates that the producer will market less than the total amount of butterfat in the form of milk during that dairy year than he or she is entitled to market pursuant to his or her daily quota.

Cancellation of daily quota for failure to market

12 Where a registered producer fails to market milk through the board for two consecutive calendar months, the daily quota allotted to the producer may be cancelled by the board.

Relief from reduction or cancellation

13 The board may exempt a registered producer from the provisions of sections 11 and 12 or otherwise modify the impact of same, if the registered producer

(a) has received permission from the board in writing, because of major repairs or renovations to his or her dairy facility, to temporarily curtail milk marketing, provided a written application for such permission has been received by the board at least one month in advance of the commencement of such major repairs or renovations;

(b) was unable to market all of his or her milk because the milk did not meet the standards established by the board for acceptable milk, provided satisfactory proof as to the quantum of such milk and its disposal is submitted to the board in writing;

(c) was unable to market a quantity of milk because of a catastrophe; the producer must apply to the board in writing as soon as reasonably possible following such event;

(d) has received permission from the board in writing to reduce or close down his or her dairy facility as a result of a notification to the board in writing that he or she plans to offer the daily quota allotted to him or her on the monthly quota exchange system, subject to such terms and conditions as the board may establish at the time such permission is granted; or

(e) has otherwise obtained permission from the board in writing to reduce his or her marketings for a period of time, subject to such terms and conditions as the board may establish at the time such permission is granted.

Cancellation of daily quota on retirement, death, winding up, etc.

14 The board may cancel a daily quota in the event of the death of a registered producer, the winding up or dissolution of a registered producer that is a corporation, or the dissolution of a registered producer that is a partnership.

Cancellation of daily quota for failure to comply with conditions

15 The board may cancel the daily quota allotted to a registered producer if a registered producer has received permission from the board under section 13(d) or (e), and fails to meet the terms and conditions established by the board in granting such permission.

Cancellation of daily quota on cancellation of registration

16 The daily quota of a person shall be automatically cancelled in the event he or she ceases to be a registered producer.

Other reduction, suspension, or cancellation of daily quota

17 The board may suspend, reduce or cancel, either on a temporary basis or on a permanent basis, a daily quota

(a) as set out in this Order;

(b) where a registered producer has failed to comply with any regulation, order or directive of the board;

(c) where a registered producer has failed to comply with the regulations under *The Dairy Act*, or where the producer's dairy facility fails to meet the requirements for building, equipment, operation and herd health set out in *The Dairy Act* or regulations

made under that Act;

(d) where a registered producer delivers milk that does not meet the standard of acceptable milk as defined by an order or regulation of the board;

(e) where a registered producer has entered into a contract or agreement that would deprive him or her of his or her right to the proceeds from the marketing of milk produced by his or her dairy cows or to his or her right to the proceeds from the monthly quota exchange system, other than an arms length commercial borrowing arrangement with a financial institution;

(f) if the board has reasonable grounds for believing that any information provided to it, by or on behalf of a registered producer, by statutory declaration or certificate is false or misleading;

(g) if the board has reasonable grounds for believing that such action is in the interests of Manitoba dairy producers and the milk industry;

(h) if the board has reasonable grounds for believing that any undertaking required by a registered producer has not been adhered to by the producer;

(i) if the board has reasonable grounds for believing that a registered producer has not complied with any terms and conditions set down by the board with respect to any transaction or proposed transaction;

(j) if a receiver is appointed with respect to the dairy facility used by a registered producer;

(k) if a registered producer or controlling party

(i) becomes insolvent or bankrupt,

(ii) applies for a receiving order,

(iii) has a receiving order made against it, or

(iv) takes any benefit from any Act for the time being in force for the relief of insolvent debtors.

PART 7

DAIRY FACILITIES

Daily quota to be allotted for a dairy facility

18 When allotting a daily quota to a registered producer, the board shall specify the location of the dairy facility in which the producer's dairy cows, or any portion of such dairy cows, must be milked.

Control of dairy facility

19 A registered producer shall be the sole operator of the dairy facility where his or her dairy cows are milked.

Standards for equipping and operating dairy facilities

20 It is a condition of the allotment of a daily quota to a registered producer that the dairy facility of that producer shall at all times meet all of the requirements for buildings, equipment, operation and herd health for dairy facilities as set out in *The Dairy Act* and regulations under that Act, and all of the requirements and standards established by the board from time to time.

Permanent relocation of dairy facility

21 A registered producer may make application to relocate his or her milk production and marketing activities to a new location. In conjunction with any such application such registered producer shall provide to the board such information as the Board may require and such consents which the board may request from any creditor who has been given security to the dairy facility used by the registered producer.

Temporary relocation of dairy facility

22 Upon a registered producer's application to the board, the board may allow that registered producer to temporarily relocate his or her dairy cows to another dairy facility, if required for the proper management of his or her herd, even if the registered producer is not the registered owner or the sole operator of the dairy facility on that new location.

Examination of dairy facility

23 It is a condition of the allotment of daily quota to a registered producer that the registered producer allow any duly authorized representative of the board to examine his or her dairy facility from time to time. Prior to such examination, the board will give reasonable notice to such registered producer of its intention to conduct such examination.

PART 8

ASSOCIATION OF REGISTERED PRODUCERS

Association of registered producers

24(1) In this section, a person is deemed to be associated with another person if

- (a) one person is an entity of which the other person is an officer, director or substantial holder;
- (b) one person is an entity of which the other person is a partner;
- (c) one person is an entity that is controlled, directly or indirectly, by the other person;
- (d) both persons are entities and one entity is controlled, directly or indirectly, by the same individual or entity that controls, directly or indirectly, the other entity;

(e) both persons are members of a voting trust where the trust controls or operates or has an interest in the other person; or

(f) both persons are associated within the meanings of clauses (a) to (e) with the same person.

24(2) If a registered producer becomes associated with another registered producer, the board may cancel or reduce the daily quotas of those registered producers unless the registered producers have requested in writing that the board waive this provision and have each provided the board, by statutory declaration in a form satisfactory to the board, with full particulars of all persons having a direct or indirect interest in such registered producers and the board has in its discretion waived this provision either conditionally or unconditionally.

Effect of sharing

25 Where two or more persons keep dairy cows in partnership, or in circumstances in which there is a sharing by them whether familial, communal, or otherwise, of facilities, equipment, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm, or individual, for the purpose of this Order, the milk marketed by one of those persons may be treated by the board as having been marketed by the other or others.

PART 9

RE-ALLOTMENT OF DAILY QUOTA

Sale of a dairy facility

26(1) If a registered producer sells his or her dairy facility, the board may re-allot the daily quota used in association with the dairy facility to any purchaser.

26(2) The registered producer and the purchaser will each be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board. All agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) shall be appended to the statutory declaration.

Lease of a dairy facility

27(1) If a registered producer leases a dairy facility, the board may re-allot the daily quota used in association with the dairy facility to the lessee.

27(2) The lessor and lessee will each be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board. All agreements between the registered producer and the lessee (including a detailed listing of all assets included in such lease) shall be appended to the statutory declaration.

Bankruptcy or receivership of a registered producer

28(1) Despite clauses 17(j) and (k), the board may, upon written request of the trustee in bankruptcy or the receiver of the registered producer or the controlling party, temporarily re-allot to the trustee in bankruptcy or receiver the daily quota allotted to that registered producer upon terms and conditions as may be established by the board at the time of the temporary re-allotment in order to allow the trustee in bankruptcy or receiver reasonable time to dispose of the interest of the registered producer or controlling party.

28(2) The trustee in bankruptcy or the receiver will be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board.

Re-allotment of daily quota on death, disability or retirement

29(1) In the event of the death, disability or retirement of an individual who is a registered producer, the board may, on written request of the registered producer or of the personal representative of the deceased or disabled registered producer, re-allot the daily quota allotted to that registered producer to the heir or designated member of that registered producer's immediate family

(a) who becomes the owner of the milk production and marketing business carried on by the registered producer and of the dairy facility; or

(b) who becomes the owner of the milk production and marketing business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the dairy facility used by such registered producer in connection such business as the successor in possession to such registered producer.

29(2) The applicants will be required to provide a statutory declaration in a form acceptable to the board setting out the information specified therein.

Re-allotment of daily quota on establishment of partnership

30(1) Where a person who is a registered producer enters into a partnership with another person, the board may, on written request of the registered producer, re-allot the daily quota allotted to that registered producer to the partnership

(a) which becomes the owner of the milk production and marketing business carried on by the registered producer and of the dairy facility; or

(b) which becomes the owner of the milk production and marketing business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the dairy facility used by such registered producer in connection with such business as the successor in possession to such registered producer.

30(2) The applicants will be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board. All agreements between the registered producer and his or her partner (including a detailed listing of all assets included in such sale) shall be appended to the statutory declaration.

Re-allotment of daily quota on establishment of a corporation

31(1) Where an individual who is a registered producer incorporates a corporation controlled by himself or herself or by members of his or her immediate family, or where partners who are registered producers incorporate a corporation owned by themselves in the same proportion as they owned interests in the partnership, or where a registered producer which is a corporation incorporates a wholly owned subsidiary, the board may, on written request of such registered producer, re-allot the daily quota allotted to that registered producer to the corporation or subsidiary,

(a) which becomes the owner of the milk production and marketing business carried on by the registered producer and of the dairy facility; or

(b) which becomes the owner of the milk production and marketing business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the dairy facility used by such registered producer in connection with such business as the successor in possession to such registered producer.

31(2) The applicants will be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board. All agreements and leases between the registered producer and the corporation or subsidiary (including a detailed listing of all assets included in the transfer) shall be appended to the statutory declaration.

Partial and complete re-allotment of daily quota to related persons

32(1) The board may, upon application of a registered producer in writing (herein called "the applicant") re-allot all or a portion of the daily quota allotted to the applicant to another person (herein called "the recipient") in the following circumstances:

(a) with respect to an individual applicant, where the recipient is a member of such applicant's immediate family;

(b) with respect to a partnership applicant, where all partners in the partnership are members of the same immediate family and where the recipient is a member of that immediate family;

(c) with respect to an applicant which is a corporation, where all legal and beneficial shareholders in such applicant are members of the same immediate family and where the recipient is a member of such immediate family;

(d) with respect to a multi family unit applicant, or a corporation which is a wholly owned subsidiary of a multi family unit, where the recipient is a wholly owned subsidiary of such applicant, or a daughter-multi family unit, or a corporation wholly owned by a daughter-multi family unit. For the purpose of this provision a daughter-multi family unit means a multi family unit recently created as a result of the division of the assets and the membership of a multi family unit.

32(2) No such re-allotment will be made until the recipient has established a separate dairy facility owned or solely operated by himself or herself, and approved by the board.

32(3) The applicants and recipients will each be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board.

32(4) The board will not approve the re-allotment of a daily quota pursuant to the above provisions if such re-allotment would result in the balance of a daily quota retained by the applicant being less than 1 kilogram of butterfat per day.

Re-allotment of daily quota on merger of registered producers

33(1) If two or more registered producers (the "applicants") wish to merge their dairy operations and carry on milk production and marketing activities at the dairy facility of one of them, the board may, upon application of such applicants re-allot the daily quota allotted to such applicants to a corporation or partnership formed by the applicants to carry on milk production and marketing activities at such dairy facility on a merged basis.

33(2) The applicants and the corporation or partnership formed by them will each be required to provide a statutory declaration in a form acceptable to the board setting out the information required by the board.

Transfers by a controlling party

34(1) If a controlling party wishes to transfer all or part of his or her shares, assets, or interest in the registered producer with the effect that he or she will no longer be the controlling party, the board may, upon application by the controlling party and the intended transferee, approve the requested transfer.

34(2) The controlling party and the intended transferee shall each provide the board, by statutory declaration in a form acceptable to the board, with full particulars of the proposed transfer, and any other information with respect to the assets and liabilities of the new controlling party.

Board may refuse re-allotment

35 The board may refuse any application for re-allotment of quota by a registered producer or a transfer by a controlling party under this Part if, in the reasonable opinion of the board,

- (a) the proposed transaction does not comply with any requirements of this Order;
- (b) any information or statutory declaration provided to it in connection with the application is false or misleading;
- (c) a registered producer has failed to comply with any regulation, order, or directive of the board;
- (d) a registered producer has failed to comply with the regulations under *The Dairy Act*, or the producer's dairy facility fails to meet the requirements for building, equipment, operation, and herd health set out in *The Dairy Act* or regulations made under that Act;
- (e) a registered producer delivers milk that does not meet the standard of acceptable milk as defined by an order or regulation of the board;

(f) a registered producer has entered into a contract or agreement that would deprive him or her of his or her right to the proceeds from the marketing of milk produced by his or her dairy cows or to his or her right to the proceeds from the monthly quota exchange system, other than an arms length commercial borrowing arrangement with a financial institution;

(g) any undertaking required by a registered producer has not been adhered to by the producer;

(h) a registered producer has not complied with any terms and conditions set down by the board with respect to any transaction or proposed transaction; or

(i) such refusal is in the interests of Manitoba dairy producers and the milk industry.

Step-transactions

36 Despite anything contained in this Order, the board may take appropriate action to prevent a person from acquiring control of, or acquiring a direct or indirect interest in daily quotas through a process:

(a) that involves more than one application to the board; or

(b) that does not disclose to the board, in conjunction with an application to the Board for any re-allotment of a daily quota, particulars of all contemplated or proposed future transactions which may involve

(i) a subsequent re-allotment of a daily quota,

(ii) a future change in the legal or beneficial ownership of an entity, or

(iii) an application to transfer a daily quota from one dairy facility to another dairy facility.

PART 10

MONTHLY QUOTA EXCHANGE SYSTEM

Re-allotment under system

37(1) Daily quotas may be cancelled and re-allotted by the board as a result of and in accordance with the procedures set out in Schedule A.

Acceptance of applications discretionary

37(2) The designated staff referred to in Schedule A may refuse to accept or may postpone the processing of any application to participate in the monthly quota exchange system for such reasons or on such terms as they deem appropriate.

PART 11

REPEAL AND COMING INTO FORCE

Repeal

38 The *Milk Marketing Quota Order*, Manitoba Regulation 70/99, is repealed.

Effective Date

39 This Order comes into force on January 1, 2006, or on the date it is registered under *The Regulations Act*, whichever is later.

January 16, 2006

DAIRY FARMERS OF MANITOBA:

William Swan
Chair

W.J.S. Wade
Secretary

APPROVED THE MANITOBA FARM PRODUCTS

January 16, 2006

MARKETING COUNCIL:

David Gislason
Chair

G. H. MacKenzie
Secretary

SCHEDULE A TO THE MILK MARKETING QUOTA ORDER
MONTHLY QUOTA EXCHANGE SYSTEM

(Section 37)

Quotas belong to the board

1 Despite the terms and provisions in this Schedule or of any forms or materials used in connection with this Schedule, as stated in section 6 of the Order, quotas belong to the board and any daily quotas allotted pursuant to the procedure set out in this Schedule may be suspended, reduced or cancelled in accordance with the Order.

No assignment of payment

2 As stated in section 8 of the Order, no person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment from a monthly quota exchange system to another person without the prior written consent of the board.

Participation by licensed cream producers

3 A licensed cream producer may participate in the monthly quota exchange system and as such may submit a bid or offer.

For the purpose of dealing with a bid submitted by a licensed cream producer, such bid shall be submitted in the form of a bid to be allotted daily quota. If the bid is successful, the allocation to the licensed cream producer as a result of such bid shall be the amount of the successful bid, multiplied by the number of days in that dairy year, and such allocation shall be expressed in terms of unused market sharing quota for that dairy year.

For the purpose of dealing with an offer submitted by a licensed cream producer, such offer shall be submitted in the form of an offer to cancel the deemed daily quota allotted to that licensed cream producer. If the offer is successful, the allocation of that licensed cream producer to be cancelled shall be the amount of the successful offer, multiplied by the number of days in that dairy year, and shall be expressed in terms of market sharing quota for a dairy year. The cancellation shall first be applied to the unused market sharing quota allocated to that licensed cream producer and secondly to the balance of the market sharing quota allocated to that licensed cream producer.

An offer which would result in the remaining market sharing quota allocated to that offeror being reduced to a level below 365 kilograms of butterfat per dairy year shall not be accepted by the designated staff. Any offeror allotted a market sharing quota of 365 kilograms of butterfat per dairy year or less must offer to cancel the entire market sharing quota allotted to him to be eligible to be an offeror on the monthly quota exchange system.

Definitions

4 The following definitions apply in this Schedule.

"bid" means an application to be allotted daily quota under a monthly quota exchange program upon payment of a program fee pursuant to the procedure set out in this Schedule.

"**bidder**" means a registered producer or an eligible person who in the opinion of the designated staff has submitted a bid in an acceptable form, and has provided satisfactory evidence of financial responsibility with respect to such bid.

"**deemed daily quota of a licensed cream producer**" means a market sharing quota allocated to that licensed cream producer divided by the number of days in that dairy year.

"**designated staff**" means those employees and other individuals designated by the Board from time to time, to operate the monthly quota exchange system.

"**eligible person**" means a person who is not a registered producer and who has met the criteria set out in subsection 2(2) of this Order.

"**exchange clearing price**" (ECP) of a monthly quota exchange system means the least amount, expressed in dollars and cents per kilogram of 1/100 of a kilogram of butterfat of daily quota, at which the cumulative volume (in an ascending order of amounts) of kilogram or 1/100 of a kilogram of butterfat offered for cancellation equals or most closely equals the cumulative volume (in a descending order of amounts) of kilogram or 1/100 of a kilogram of butterfat of daily quota requested for allotment.

"**monthly quota exchange system**" means the procedure operated from time to time for daily quota pursuant to this Schedule, whereby a registered producer may offer to have the whole or a portion of the daily quota allotted to him cancelled in the manner provided in this Schedule, and a registered producer or an eligible person may bid to have daily quota allotted to him in the manner provided in this Schedule.

"**offer**" means an application to have daily quota cancelled under a monthly quota exchange system upon receipt of a program payment pursuant to the procedure set out in this Schedule.

"**offeror**" means a registered producer who in the opinion of designated staff has submitted an offer in an acceptable form with respect to daily quota allotted to him or her by the board.

"**quota**" means a daily quota or a deemed daily quota of a licensed cream producer.

"**reallocation day**" means the day on which a monthly quota exchange system is operated.

"**registered producer**" for the purposes of this Schedule except sections 11, 12 and 13 includes a person who is a licensed cream producer under the *Cream Marketing Licensing Order*, Manitoba Regulation 175/90.

"**reserve**" means an account established by the board to which any daily quota acquired on behalf of the reserve to balance a monthly quota exchange system in the manner contemplated by clause 8(13) is credited; and to which any monies received for daily quota added to balance a monthly quota exchange system in the manner contemplated by clause 8(12) are credited.

"unused market sharing quota" means that portion of the market sharing quota allotted to a licensed cream producer for a dairy year which has not been marketed during that dairy year.

Monthly quota exchange system administration

5 The monthly quota exchange system will be operated by the designated staff. The designated staff shall be responsible for establishing the date of each reallocation day, publishing such dates, receiving and processing offers and bids, operating each monthly quota exchange system, reporting the results to the board.

The Manitoba council may appoint members of its staff to act as observers and auditors of each monthly quota exchange system. Except as provided in subsection 8(14), all particulars with respect to an individual offer or to an individual bid shall be kept confidential by designated staff and Manitoba council observers and auditors, and shall not be disclosed to the members of Dairy Farmers of Manitoba, Dairy Farmers of Manitoba staff who are not designated staff, or any other person whatsoever.

The board may prescribe forms to be used in the operation of a monthly quota exchange program from time to time. The designated staff may accept a bid or an offer, or an amendment or a withdrawal of a bid or an offer which is not in a prescribed form, as long as same is in writing and in the opinion of the designated staff substantially complies with any such prescribed form.

Program fund

6 All program fees paid by successful bidders shall be credited to the program fund pursuant to section 10. The program fund shall be used to make program payments to successful offerors.

Program fees and program payments

7 In this Schedule, and in all forms and materials used in connection with the monthly quota exchange system, all references to program fees and all references to program payments shall be expressed or shall be assumed to be expressed on a kilogram or 1/100 of a kilogram of butterfat of daily quota basis.

Each program fee paid by a successful bidder must be paid on each kilogram or 1/100 of a kilogram of butterfat per day allocated.

Each program payment paid to a successful offeror will be paid on each kilogram or 1/100 of a kilogram of butterfat of daily quota cancelled.

Monthly quota exchange system procedures

8(1) Designated staff may operate a monthly quota exchange system on the first regular business day following the last day of each calendar month. At least one bidder and at least one offeror will be required to operate a monthly quota exchange system.

8(2) Designated staff may cancel, or may postpone for up to seven days at any time, the operation of any monthly quota exchange system for any reason they deem advisable.

8(3) A person wishing to participate in a monthly quota exchange system must submit either an offer or a bid in writing, either by letter, telefax, or electronic mail, in a form satisfactory to the designated staff to the board's head office which must be received by the designated staff prior to 4:00 p.m. of the last regular business day before the month in which the proposed monthly quota exchange system is held.

8(4) Each offer on a particular monthly quota exchange system must include the following information:

- (a) the amount of daily quota expressed in kilograms or 1/100 of kilograms of butterfat per day offered for cancellation;
- (b) the program fee, to the nearest cent per kilogram of butterfat per day, which the offeror is willing to accept upon cancellation of the quota offered for cancellation;
- (c) the date of the monthly quota exchange system (the month) to which the offer applies;
- (d) the name, address and signature of the offeror;
- (e) the producer registration number of the offeror.

8(5) Each bid on a particular monthly quota exchange system must include the following information:

- (a) the amount of daily quota in kilograms or 1/100 of kilograms of butterfat per day requested for allotment;
- (b) the program fee to the nearest cent per kilogram of butterfat per day which the bidder is willing to pay upon allotment of the daily quota requested for allotment;
- (c) the date of the monthly quota exchange system (the month) to which the bid applies;
- (d) the name, address and signature of the bidder;
- (e) the producer registration number of the bidder where applicable.

8(6) In the case of an omission or defect in a bid or in an offer, the designated staff may not make any changes or additions to such bid or offer, and the bid or offer will be rejected. A member of the designated staff shall attempt to contact the bidder or the offeror and to advise him of such rejection. The fact that a bid or offer is rejected shall not preclude the bidder or offeror from submitting a subsequent bid or offer.

8(7) An offer or a bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter or a telefax or electronic mail sent by the bidder or the offeror, and is received by the designated staff at the head office of the Board prior to 12:00 o'clock midnight of the last working day before the first day of the month in which the monthly quota exchange system is to be held. Such withdrawal or amendment must be clear and unambiguous and must identify the bidder or offeror by name and producer registration number, where applicable, and must specify the offer or the bid that is to be withdrawn or amended.

8(8) Any offer or bid which is received after any deadline for submission for the system will be rejected by the designated staff.

8(9) As provided in section 36(2) of this Order, the designated staff may refuse to accept or may postpone the processing of any bid or any offer. The designated staff may require an offeror to provide proof of the consent of any secured creditor of the offeror to the submission of such offer. Any decision to postpone the processing of a bid or an offer, or to reject a bid or an offer made by the designated staff shall be final. The designated staff may also establish terms and conditions before a bid or an offer will be processed in the future. Any person who is not satisfied with the terms and conditions established by the designated staff before a bid or offer will be processed in the future may appeal such decision in writing to Dairy Farmers of Manitoba.

8(10) On reallocation day, the designated staff shall proceed to match as closely as possible the cumulative volume of daily quota, in an ascending order of amounts offered in the offers with the cumulative volume of daily quota, in a descending order of amounts submitted in the bids. This procedure shall be known as "clearing" a monthly quota exchange system. The exchange clearing price (ECP) as determined by clearing a monthly quota exchange system shall be the least amount at which the cumulative volumes most closely match and shall be the amount of the program fee payable to Dairy Farmers of Manitoba by a successful bidder and the amount of the program payment payable by Dairy Farmers of Manitoba to a successful offeror under that monthly quota exchange system.

8(11) Subject to subsection 8(12) and to the acceptance of the results by the board under subsection 8(14),

(a) if a bidder has submitted a bid at an amount equal to, or higher than the exchange clearing price on a system then that bid shall be deemed to successful and the bidder shall pay to Dairy Farmers of Manitoba an amount equal to the exchange clearing price representing the full amount of the program fee payable by the bidder for the amount of daily quota bid on or before the last working day of the month for that monthly quota exchange system;

(b) if an offeror has submitted an offer at an amount equal to, or lower than, the exchange clearing price on a system, then that offer shall be deemed to be successful and the offeror shall be entitled to receive from Dairy Farmers of Manitoba a program payment equal to the exchange clearing price for the amount of daily quota offered for cancellation on or before the last working day of the month of that monthly quota exchange system.

The designated staff shall contact each successful bidder and advise the bidder of the amount to be paid to Dairy Farmers of Manitoba on or before the last working day of the month of the monthly quota exchange system.

8(12) Upon the clearing of a monthly quota exchange system, if it is determined by the designated staff that, at the exchange clearing price, the cumulative volume of daily quota in the bids exceeds the cumulative volume of daily quota in the offers, the designated staff shall add to the monthly quota exchange system on behalf of the reserve, at the exchange clearing price, an amount of daily quota sufficient to balance the amount offered and the amount bid; or, at the option of the designated staff, the successful bidders shall be deemed to have bid, at the exchange clearing price, a percentage of their bid, based on the ratio of the daily quota comprising the successful offers to the daily quota comprising the successful bids.

8(13) Upon the clearing of a monthly quota exchange system, if it is determined by the designated staff that, at the exchange clearing price, the cumulative volume of daily quota in the offers exceeds the cumulative volume of daily quota in the exchange system on behalf of the reserve, at the exchange clearing price for any excess daily quota; or, at the option of the designated staff, the successful offerors shall be deemed to have offered, at the exchange clearing price, a percentage of their offer, based on the ratio of the daily quota comprising the successful Bids to the daily quota comprising the successful offers.

8(14) Following the conduct of a monthly quota exchange system, the designated staff shall report to Dairy Farmers of Manitoba the number of bids received, the number of offers received, the number of kilograms of butterfat per day and the amounts bid or offered in each bid or offer, together with the exchange clearing price and particulars of the successful bids and successful offers. The board will review such report and if satisfied, in its sole discretion, that there have been no irregularities or deficiencies in the operation of the monthly quota exchange system, Dairy Farmers of Manitoba may pass a resolution to accept such results.

8(15) Following the acceptance of the result of a monthly quota exchange system, Dairy Farmers of Manitoba will pass a resolution to allot daily quotas to successful bidders and to cancel daily quota of successful offerors in order to implement such results.

8(16) The allotment and cancellation of daily quotas will be effective as of the first day of the month following the month in which the monthly quota exchange system was conducted.

8(17) Following the board's consideration of the results of a monthly quota exchange system, each participant in the monthly quota exchange system will be advised in writing by the designated staff whether his or her offer or bid was successful.

8(18) Failure by a bidder to pay the exchange clearing price on or before the last working day of the month of a monthly quota exchange system shall entitle the designated staff to cancel the bid whereupon that daily quota shall be credited to the reserve. Dairy Farmers of Manitoba may offer to cancel any daily quota in the reserve on a future monthly quota exchange system. Additionally, any failure by a bidder to pay the exchange clearing price in accordance with the terms hereof shall be grounds to prohibit the bidder from participating in any subsequent monthly quota exchange system.

Limits on bids and offers

9(1) An offer which would result in the remaining daily quota allocated to that offeror being reduced to a level below 1 kilogram of butterfat per day will be rejected by the designated staff. Any offeror allotted a daily quota of kilograms of butterfat per day or less must offer to cancel all such daily quota to be eligible to be an offeror on a monthly quota exchange system. No bid of less than one-hundredth of a kilogram of butterfat per day will be processed.

9(2) More than one bid or more than one offer may be made on the same monthly quota exchange system by the same person.

A bidder shall not be allowed to be an offeror on the same monthly quota exchange system and neither the bid nor the offer will be processed.

Program fund

10(1) All program fees paid to Dairy Farmers of Manitoba by successful bidders will be allocated to the program fund.

10(2) All program payments made by Dairy Farmers of Manitoba to successful offerors will be paid from the program fund.

Information

11 Dairy Farmers of Manitoba will forward to each registered producer in a form approved by Dairy Farmers of Manitoba, within 15 days following the acceptance of the results of a monthly quota exchange system by Dairy Farmers of Manitoba, the results of such system.

SCHEDULE B

CREAM CONVERSION SYSTEM

Definitions

1 The following definitions apply in this Schedule.

"**conversion date**", for an approved person, means the first day of a month designated by the Board for that person.

"**Cream Quota Order**" means the *Cream Marketing Quota Order*, Manitoba Regulation 175/90.

"**licensed cream producer**" means an eligible applicant whose application under section 3 of this Schedule is approved by the board.

"**eligible applicant**" means a licensed cream producer who

- (a) has met the criteria set out in subsections 2(1) and (2) of the Order;
- (b) has been allotted a market sharing quota equal to at least 365 kilograms of butterfat per dairy year;
- (c) is a resident of Manitoba; and
- (d) will have had an interview with a representative of Dairy Farmers of Manitoba involved in the administration of this Schedule prior to the conversion date.

Application to be made

2 An eligible applicant may make application for allotment of a daily quota under this Schedule as of a proposed conversion date. Every application shall be in writing in a form prescribed by the Board and must be signed by the applicant and received at the head office of Dairy Farmers of Manitoba at P.O. Box 723, 36 Scurfield Boulevard, Winnipeg, Manitoba R3C 2K3 at least 60 days prior to the proposed conversion date.

Basis of application

3 Each application under this Schedule shall be

- (a) for the allotment of a daily quota of a minimum of 1 kilogram of butterfat per day (1 kilogram for each 365 kilograms of market sharing quota allotted to that applicant under the Cream Quota Order);
- (b) deemed to be a request by the applicant under the Cream Quota Order that, upon acceptance of such application, the board cancel the market sharing quota allotted to that applicant under the Cream Quota Order.

Approval of applicants

4 Dairy Farmers of Manitoba will, from time to time, consider applications received under section 3 and, upon approval of any such application, will designate the conversion date for such applicant.

Effect of approval

5 On the conversion date, the market sharing quota allotted to each approved person under the Cream Quota Order shall be cancelled, and each such approved person shall be allotted a daily quota of 1 kilogram of butterfat per day for each 365 kilograms of butterfat per dairy year comprising the market sharing quota previously allotted to that approved person which has been so cancelled.

Cancellation for failure to market

6 Any daily quota allotted pursuant to this Schedule may be cancelled by the board if the approved person does not begin marketing milk through Dairy Farmers of Manitoba on the conversion date.

Cancellation for continuing to market cream

7 In the event an approved person markets cream after the conversion date, the daily quota allotted to that person pursuant to this Schedule may be cancelled by the board.