

BRITISH COLUMBIA MILK MARKETING BOARD

CONSOLIDATED ORDER OF **APRIL 1, 2006**

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CONTENTS

Section

Page

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PART I - INTRODUCTORY

- | | |
|-----------------------|---|
| 1. Purpose of Order | 1 |
| 2. Authority of Board | 1 |
| 3. Interpretation | 1 |

PART II - LICENSING

- | | |
|------------------------------------|----|
| 4. Requirement to Hold Licence | 11 |
| 5. Application Process | 11 |
| 6. General Conditions | 11 |
| 7. Licence Classes | 11 |
| 8. Licence Fee | 14 |
| 9. Renewal | 14 |
| 10. No Transferability of Licences | 15 |

PART III - ALLOTMENT AND REGISTRATION OF QUOTA

- | | |
|---|----|
| 12. Form in Which Quota is Allotted | 17 |
| 13. General Principles of Allotment | 17 |
| 14. Allotment of Total Production Quota | 18 |
| 15. Special Allotment of Total Production Quota
Under Graduated Entry Program | 18 |
| 16. Special Allotment of Total Production Quota
Under Cottage Industry Program | 18 |
| 17. Registration of Total Production Quota | 19 |

PART IV - TRANSFER OF TOTAL PRODUCTION QUOTA

- | | |
|---|----|
| 18. Limitations on Transfer of Total Production Quota | 21 |
| 19. Quota Exchange | 21 |
| 20. No Commission on Transfer | 21 |
| 21. Application to Transfer Total Production Quota | 21 |
| 22. Transfer of All or Substantially All Total Production Quota | 22 |
| 23. Surrender of Total Production Quota on Transfer | 23 |
| 23.1 Application to Re-Allocate Total Production Quota | 24 |

PART V - PRODUCTION REQUIREMENTS AND LIMITATIONS

- | | |
|--|----|
| 24. Within Quota and Over Quota Production | 25 |
| 25. Obligation to Produce | 25 |

PART VI - CLASSIFICATION OF QUALIFYING MILK

26. Classification by Utilization	27
-----------------------------------	----

PART VII - ALLOCATION OF MILK SUPPLY AMONG VENDORS

27. Allocation at Board Discretion	31
28. Variation of Milk Supply Allocation	32
29. Order Change or Disruption Surcharges	32

PART VIII - PRICES AND PAYMENT

30. Prices to be Established and Published	33
31. Advance Payment to be Made by Pool Participant Vendors	33
32. Final Monthly Settlement to be Made by Pool Participant Vendors	34
33. Organic Milk Premium	35

PART IX - EQUALIZATION OF RETURNS

34. Principles of Equalization	37
35. Minimum Pool Participant Producer Rates of Return to be Published	37
36. Determination of Minimum Pool Participant Producer Returns for Within Quota Production	38
37. Determination of Minimum Pool Participant Producer Returns, If Any, for Over Quota Production	39

PART X - DISTRIBUTION OF EQUALIZED RETURNS

38. Distribution of Equalized Returns to Pool Participant Producers	41
39. Payment of Milk Quality Bonus to Qualifying Pool Participant Producers	43
40. Statements	43

PART XI - LEVIES

41. Producer Levies	45
42. Vendor Levies	45
43. Transporter Levies	45
44. Receipt of Levies Under the Federal Regulations	45

PART XII - REPORTING AND INSPECTION

45. Vendor and Transporter Reporting to Board	47
46. Vendor and Transporter Records to be Available for Inspection	47
47. Licensees to Provide Information and Permit Inspection	47
48. Inspection of Producer's Premises	48

PART XIII - PROHIBITIONS

49. Producer or Producer Vendor	49
50. Vendor	49
51. Transporter	49

PART XIV - COMPLIANCE

52. Suspension or Cancellation	51
53. Hearings	51
54. Board may Review, Vary or Rescind Decision	51
55. Seizure	51

PART XV - COMMITTEES

56. Appointment of Advisory Committee	53
57. British Columbia Milk Industry Advisory Committee	53
58. Audit Advisory Committee	54
59. Transportation Advisory Committee	54

PART XVI - MISCELLANEOUS

60. Forms	57
61. Revocation and Transition	57
62. Commencement	57

SCHEDULE 1 - GRADUATED ENTRY PROGRAM RULES 59

SCHEDULE 2 - COTTAGE INDUSTRY PROGRAM RULES 65

SCHEDULE 3 - QUOTA EXCHANGE RULES 71

**SCHEDULE 4 - MINIMUM PRICES FOR CLASSES OF MILK
and MINIMUM ADVANCE PAYMENT 79**

SCHEDULE 5 - PROTEIN AND OTHER SOLIDS FORMULA 81

SCHEDULE 6 - LEVIES 83

SCHEDULE 7 – MILK TRANSPORTATION RULES 92

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PART I - INTRODUCTORY

Purpose of Order

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

Authority of Board

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

Interpretation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Exempt Person**” means:

- (a) a Producer’s spouse, child, child and the child’s spouse; or
- (b) where no Person named in sub-paragraph (a) intends to operate a dairy farm, such other Person, as the Board may determine;

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

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

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

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

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

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

- Point 1: 116° 38' W 49° 9' N
- Point 2: 116° 34' W 49° 9' N
- Point 3: 116° 29' W 49° 6' N

- Point 4: 116° 25' W 49° 6' N
- Point 5: 116° 25' W 49° 0' N
- Point 6: 116° 36' W 49° 0' N

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

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

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

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

- Point 1: 118° 52' W 50° 12' N
- Point 2: 119° 16' W 50° 12' N
- Point 3: 119° 18' W 50° 21' N
- Point 4: 119° 47' W 50° 27' N
- Point 5: 120° 11' W 50° 40' N
- Point 6: 119° 55' W 50° 38' N
- Point 7: 119° 32' W 50° 54' N
- Point 8: 119° 20' W 50° 53' N
- Point 9: 119° 16' W 50° 45' N
- Point 10: 118° 57' W 50° 52' N
- Point 11: 118° 56' W 50° 50' N
- Point 12: 119° 5' W 50° 27' N
- Point 13: 119° 14' W 50° 18' N
- Point 14: 118° 52' W 50° 18' N

“**Partial Total Production Quota Sale**” means a sale in which Total Production Quota is sold, subject to the surrender provisions of the Consolidated Order, to one purchaser, in an amount not less than 500 kilograms;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Related Producers**” mean:

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

“**Related Vendors**” mean:

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

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

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

“**Specialty Product**” means milk that is substantively different from the mainstream product and is third party verified as such. Certified organic milk is a Specialty Product.

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“**Specialty Product Total Production Quota**” means restricted quota designated for the production of milk for a Specialty Product and may be transferred on the condition that it continues to be used for the designated purpose. All definitions for Total Production Quota and its derivatives are applicable to Specialty Product Total Production Quota and its derivatives.

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“**Total Production Quota**” means:

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

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

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

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

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

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

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

“**Transporter**” means a Person who owns or operates a vehicle or vehicles for the transportation of milk in bulk;

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

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

“**Used Total Production Quota**” means the aggregate of:

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

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

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

- Point 1: 124° 48’ W 49° 14’ N
- Point 2: 124° 33’ W 49° 23’ N
- Point 3: 124° 51’ W 49° 32’ N

- Point 4: 124° 51' W 49° 42' N
- Point 5: 125° 5' W 49° 50' N
- Point 6: 125° 9' W 49° 48' N
- Point 7: 124° 54' W 49° 28' N
- Point 8: 124° 47' W 49° 21' N
- Point 9: 125° 0' W 49° 24' N

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

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

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

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PART II - LICENSING

Requirement to Hold Licence

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

Application Process

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

General Conditions

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

Licence Classes

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

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

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

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- (xi) in the alternative to (x), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;
 - (xii) without the written approval of the Board, is ineligible to sell, ship for sale or offer for sale any milk produced on the farm; and
 - (xiii) does not hold any other class of licence, unless otherwise approved by the Board.
- (e) Class "H" Transporter Licence and Class "H-FED" Transporter Licence to a Transporter who:
- (i) has a valid and subsisting tank milk receiver licence issued under the *Milk Industry Act*;
 - (ii) transports or delivers milk only from Persons who are licensed by the Board;
 - (iii) employs only tank milk receivers who comply with the provisions of the current Manual for Tank Milk Receivers in British Columbia prepared by the ministry responsible for the enforcement of the *Milk Industry Act*; and
 - (iv) has entered into a written agreement with the Board concerning the terms and conditions of transport.

Licence Fee

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

Renewal

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

- (b) Vendor licences upon receipt of the prescribed application form and licence fee and provided that the Vendor has maintained compliance with all orders of the Board; and
- (c) Transporter licences upon receipt of the prescribed licence fee and upon verification that the Transporter has a Valid Licence or permit issued pursuant to the *Milk Industry Act*.

No Transferability of Licences

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

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PART III - ALLOTMENT AND REGISTRATION OF QUOTA

Form in Which Quota is Allotted

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

General Principles of Allotment

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

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

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

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

Allotment of Total Production Quota

14. (1) Without the written consent of the Board, a licensed Producer shall not be permitted to hold an allotment of Total Production Quota exceeding 5.0% of the Total Production Quota allotted by the Board to all Producers. This limitation applies to all Total Production Quota allotted by the Board to a Producer including that in which a Person may have an interest by means of partnership, corporate agreement or share equity.
- (2) The Board may allot new Total Production Quota or adjust or reduce allotted Total Production Quotas to such Producers, at such time or times, in such amounts and in such a manner as may be determined by it. In the event that the Board decides to allot new Total Production Quota, it shall consult with the Specialty Milk Product Advisory Committee and allot restricted Total Production Quota only to licensed Producers who are in full compliance with this Consolidated Order, the B.C. Act, the B.C. Regulation and other relevant legislation, and on an adjusted pro rata basis according to each such Producer's share of the Total Production Quota allotted by the Board to all Producers.
- (3) The Board will convert 10% of the restricted Total Production Quota issued to the producer to an equivalent amount of transferable Total Production Quota after each year to a maximum of 90% of the restricted Total Production Quota issued. This conversion is applied individually and separately to each allotment of restricted Total Production Quota.
- (4) Following allotment of Total Production Quota by the Board, notice of the amount of Total Production Quota so allotted to a Producer will be provided by the Board to the Producer.
- (5) Where a Producer operates more than one dairy farm, Total Production Quota allotted to that Producer will be apportioned by the Board to each such dairy farm in accordance with subsection (2) and in proportion to the Total Production Quota then held for production with respect to each such dairy farm.

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Special Allotment of Total Production Quota Under Graduated Entry Program

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

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Special Allotment of Total Production Quota Under Cottage Industry Program

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

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Registration of Total Production Quota

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

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PART IV - TRANSFER OF TOTAL PRODUCTION QUOTA

Limitations on Transfer of Total Production Quota

18. Total Production Quota may only be Transferred:
- (a) as Unused Total Production Quota or as Used Total Production Quota;
 - (b) upon application to, and with the approval of, the Board;
 - (c) through the Quota Exchange, excepting:
 - (i) Transfers to Exempt Persons;
 - (ii) Transfers which constitute a Going Concern Sale;
 - (iii) Transfers which constitute a Partial Total Production Quota Sale;
 - (iv) Transfers which constitute a Total Production Quota Swap;
 - (v) deemed Transfers between partners or shareholders; or
 - (vi) Transfers from a Producer to a partnership or a corporation in which the Producer is a partner or a shareholder.

Quota Exchange

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

No Commission on Transfer

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

Application to Transfer Total Production Quota

21. (1) Applications to Transfer Total Production Quota other than through the Quota Exchange:
- (a) must be provided to the Board on or before 4:30 p.m. on the first Business Day of the month preceding the month in which the Transfer is to occur; and
 - (b) will be approved only on the first day of the month following receipt of the application;

- (2) The Board will not consider applications:
 - (a) for Transfer of Total Production Quota for August 1 in any year;
 - (b) for a Transfer of Total Production Quota which constitutes a Total Production Quota Swap:
 - (i) for August 1 or September 1 in any year; or
 - (ii) concerning an amount of Total Production Quota that is less than 100 kilograms; or
 - (iii) where the application, if approved, would result in a Producer having swapped in a Dairy Year an aggregate amount of Total Production Quota that exceeds 20% of that Producer's total allotment of Total Production Quota;
 - (c) for a Transfer which constitutes a Partial Total Production Quota Sale, unless the application is accompanied by a confirmation letter issued by the Board setting out the amount of Total Production Quota available for Transfer.
- (3) The Board may refuse to approve a Transfer of Total Production Quota where the Transferor or the Transferee is not in compliance with the B.C. Act, the B.C. Regulation, the *Milk Industry Act*, other relevant legislation, or orders of the Board.
- (4) The Board may impose conditions with respect to any approval of a Transfer of Total Production Quota.
- (5) The Board may suspend the approval of Transfers for a definite or indefinite period of time.

Transfer of All or Substantially All Total Production Quota

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

Surrender of Total Production Quota on Transfer

23. (1) Subject to subsection (5), where Total Production Quota is Transferred, the Transferor shall surrender to the Board an amount of Total Production Quota equivalent to 2.5% of the amount of Total Production Quota being Transferred.
- (2) When a Person who has not commenced Deliveries of Qualifying Milk Transfers Total Production Quota registered in that Person's name, such Person shall surrender to the Board an amount of Total Production Quota equivalent to 20% of the amount of Total Production Quota being Transferred.
- (3) Where the interest of a Producer in a partnership is increased, decreased or transferred, a proportionate Transfer of the Total Production Quota deemed to have been allotted to such Producer is deemed to occur.
- (4) Where the direct or indirect interest of an individual in a corporate Producer is increased, decreased or transferred, a proportionate Transfer of the Total Production Quota deemed to have been allotted to such individual is deemed to occur.
- (5) A surrender of Total Production Quota is not required where:

- (a) Total Production Quota is Transferred to an Exempt Person;
- (b) the Transfer of Total Production Quota constitutes a Total Production Quota Swap;
- (c) a deemed Transfer of Total Production Quota is to partners or shareholders who are Exempt Persons;
- (d) two or more licensed Producers enter into an agreement of partnership and the partnership interest of each such licensed Producer is proportionate to the Total Production Quota registered in that licensed Producer's name;
- (e) the amount of Total Production Quota deemed to have been allotted to a Producer having an interest in a partnership remains registered in that Producer's name upon dissolution of the partnership;
- (f) Total Production Quota is Transferred by a Person to that Person's brother or sister in circumstances where (and only for so long as) the entirety of the Total Production Quota so Transferred is held for production by the Transferee at the same dairy farm as was operated by the Transferor immediately prior to such Transfer.

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Application to Re-Allocate Total Production Quota

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

PART V - PRODUCTION REQUIREMENTS AND LIMITATIONS

Within Quota and Over Quota Production

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

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

Obligation to Produce

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

- (b) a Person to whom Quota has been allotted, who has not commenced Deliveries of Qualifying Milk within 60 calendar days from the date that such Quota was allotted to such Person.

PART VI - CLASSIFICATION OF QUALIFYING MILK

Classification by Utilization

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

- (f) Class 3(a) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of cheese not otherwise specified in Class 3(b), and includes (but is not limited to) mozzarella, cottage cheese, fresh curd and specialty cheese (all as defined by the Board).
- (g) Class 3(b) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of cheddar cheese, light cheddar cheese, cheese bases and mixes, cream cheese, and stirred curd.
- (h) Class 4(a) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of all types of butter, butter oil, all types of milk powder and casein, condensed milk used as an ingredient in the non-dairy food industry and all other products not elsewhere stated.
 - (i) Milk components for the manufacture of rennet casein (dry or curd) or Milk Protein Concentrate (MPC) to be used in the manufacture of non-standardized final products in the processed cheese category and is subject to national pricing and administration.
- (i) Class 4(b) Qualifying Milk is milk sold to a Vendor and utilized in the manufacture of concentrated milk.
- (j) Class 4(c) Qualifying Milk is milk utilized for an unclassified new product (with classification to another sub-class of Qualifying Milk to occur within six months of receiving Class 4(c) classification), or milk utilized by a Vendor in the processing of non-fluid manufactured dairy products for sale or transfer to wholesale or retail customers in the Yukon or the Northwest Territories.
 - (i) New industrial products subject to innovative pricing discounts approved by the Western Milk Pool.
- (k) Class 4(d) Qualifying Milk is milk considered as inventory or plant losses.
- (l) Class 4(d)(i) Qualifying Milk is bulk raw milk or cream transported out of the Province of British Columbia to Alberta, Saskatchewan or Manitoba.
- (m) Class 4(m) Qualifying Milk is milk used in the manufacture of processed animal feed or otherwise used in a marginal domestic disposal market.

- (n) Class 5 Qualifying Milk is milk in the following Special Classes:
- (i) Class 5(a) milk means the equivalent volume of milk utilized to manufacture cheese ingredients used for further processing in Canada, pursuant to a valid Special Milk Class Permit issued by the Commission;
 - (ii) Class 5(b) milk means the equivalent volume of milk utilized in the manufacture of all dairy products, other than cheese, used for further processing in Canada, pursuant to a valid Special Milk Class Permit issued by the Commission;
 - (iii) Class 5(c) milk means the equivalent volume of milk utilized in the confectionery sector, pursuant to a valid Special Milk Class Permit issued by the Commission;
 - (iv) Class 5(d) milk means the equivalent volume of milk utilized in the manufacture of dairy products for export outside Canada, pursuant to a valid Special Milk Class Permit by the Commission;

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PART VII - ALLOCATION OF MILK SUPPLY AMONG VENDORS

Allocation at Board Discretion

27. (1) Subject to subsections (2) and (3), the Board may allocate among Dairy Plants operated by licensed Vendors, up to 90% of the milk supply from Producers in any manner that the Board, in its sole discretion, considers appropriate, provided nevertheless that first priority shall be given to the demand for Class 1 Qualifying Milk, Class 2 Qualifying Milk, and that part of Class 3 Qualifying Milk required for the manufacture of cottage cheese or cream cheese.
- (2) Milk supply allocated by the Board under subsection (1):
- (a) shall be allocated as a specified Class or Classes of Qualifying Milk;
 - (b) shall be allocated to a specified Dairy Plant operated by a Vendor;
 - (c) is contingent upon the undertaking and ability of the receiving Vendor to maintain processing capacity sufficient for the volume of milk so allocated, together with:
 - (i) a reasonable volume of milk in excess of that allocation; and
 - (ii) a reasonable volume of milk eligible only for the over Total Production Quota pool;
 - (d) excludes milk supply associated with the Domestic Dairy Product Innovation Program; and
 - (e) excludes organic Qualifying Milk produced by a Certified Organic Producer who has a contract with a Vendor for the supply of such organic Qualifying Milk, to the extent only of that specified quantity of organic Qualifying Milk which is the subject of that contract.
- (3) In exercising its discretion under subsection (1), the Board will have regard to:
- (a) each Vendor's total volume of milk receipts in British Columbia, Alberta, Saskatchewan and Manitoba during the preceding Dairy Year;
 - (b) any changes to the provincial allocation of Federal Manufactured Milk Quota;
 - (c) any allocation of milk supply made by the Board to a Dairy Plant operated by a Related Vendor;

- (d) any instance or history of default by a Vendor with respect to the obligations of that Vendor to make payment to the Board for litres of Qualifying Milk and butterfat content received from Producers, or on account of levies imposed by the Board, as required under this Consolidated Order; and
- (e) the principle that any allocation of milk supply among Dairy Plants operated by Vendors should, in the opinion of the Board, promote the objective of enhancing or maintaining industry stability.

Variation of Milk Supply Allocation

- 28. A Vendor may apply to the Board for a variation of the milk supply allocation made by the Board to a Dairy Plant operated by that Vendor.

Order Change or Disruption Surcharges

- 29. (1) An order change surcharge of \$350.00 will be imposed upon a Vendor on each occasion that such Vendor cancels a requested Delivery of milk on less than three Business Days' notice to the Board.
- (2) A disruption surcharge may be imposed upon a Vendor, in such amount as the Board deems appropriate, on each occasion that such Vendor fails or refuses to receive milk at such time or times as the Board may direct.

PART VIII - PRICES AND PAYMENT

Prices to be Established and Published

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

Advance Payment to be Made by Pool Participant Vendors

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

Final Monthly Settlement to be Made by Pool Participant Vendors

32. (1) All Vendors operating under:

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

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

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

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

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Organic Milk Premium

33. (1) Where organic Qualifying Milk is received by a Pool Participant Vendor from a Certified Organic Producer who has a contract with that Pool Participant Vendor for the supply of a specified quantity of organic Qualifying Milk, the Pool Participant Vendor shall, on or before the 19th day after the end of each month, pay directly to that Certified Organic Producer a minimum premium of \$0.30 for each litre of contracted organic Qualifying Milk determined by the Board to be within quota production and received by the Pool Participant Vendor from that Certified Organic Producer during the previous month.
- (2) The premium payable by a Pool Participant Vendor under subsection (1) is in addition to any amounts due by that Pool Participant Vendor to the Board, on behalf of that Certified Organic Producer, under section 32.
- (3) The premium payable by a Pool Participant Vendor under subsection (1) will be reviewed by the Special Milk Product Advisory Committee (SMPAC) which may make substantiated recommendations to the Board for revision to the premium amount. Any revision to the premium may only be made by the Board effective August 1 and February 1 of each year.

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PART IX - EQUALIZATION OF RETURNS

Principles of Equalization

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

Minimum Pool Participant Producer Rates of Return to be Published

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

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

Determination of Minimum Pool Participant Producer Returns for Within Quota Production

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

- (3) The Board may adjust the gross dollar value of butterfat, or the adjusted gross dollar value of either or both of protein or other solids calculated in accordance with subsection 36(2), in the within Total Production Quota pool. Such adjustments may reflect:
 - (a) charges incurred by the Board from time to time related to cost sharing agreements with the Commission and other provinces;
 - (b) approved freight charges and approved delivery surcharges for milk transported within British Columbia;
 - (c) agreed freight charges for milk transported between British Columbia, Alberta, Saskatchewan and Manitoba;
 - (d) interest earned on the Producer equalization pool bank account; and
 - (e) audit adjustments to a prior month's Producer pool.

- (4) The Board may apply a credit to the within Total Production Quota pool, such credit to be calculated by taking the sum of:
 - (a) the gross dollar value of butterfat, protein and other solids in the within Total Production Quota pool calculated in accordance with paragraphs 36(1)(a), (b) and (c) respectively; plus
 - (b) the total dollars charged to Pool Participant Vendors for the kilograms of butterfat, protein and other solids in Classes 2 through 4(d); less
 - (c) the amount paid to Pool Participant Producers for butterfat, protein and other solids in accordance with subsections 35(d), (e) and (f) respectively.

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

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

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PART X - DISTRIBUTION OF EQUALIZED RETURNS

Distribution of Equalized Returns to Pool Participant Producers

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

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

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

Payment of Milk Quality Bonus to Qualifying Pool Participant Producers

- 39. On the 13th Business Day of each month, the Board will pay to qualifying Pool Participant Producers, from the proceeds of the marketing costs and losses levy imposed upon Vendors, a milk quality bonus of \$0.25 for each hectolitre of Qualifying Milk received by a Pool Participant Vendor through the Board during the previous month provided that such Qualifying Milk has:
 - (a) a somatic cell count equal to or less than 250,000 cells per millilitre; and
 - (b) a standard plate count equal to or less than 10,000 colony forming units per millilitre.

Statements

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

- (f) the rate paid and the amount of the payment for each kilogram of butterfat, protein and other solids described in subsection 40(e);
- (g) detailed accounting in respect of milk which has been found not to be Qualifying Milk;
- (j) all authorized or required deductions, fully itemized.

PART XI - LEVIES

Producer Levies

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

Vendor Levies

42. Levies are fixed and imposed on each Vendor as set out in Schedule 6. Such levies are due and payable to the Board on the 12th Business Day of each month, and shall thereafter bear interest at the rate of 24% per annum.

Transporter Levies

43. Levies are fixed and imposed on Transporters as set out in Schedule 6.

Receipt of Levies Under the Federal Regulations

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

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PART XII - REPORTING AND INSPECTION

Vendor and Transporter Reporting to Board

45. (1) Every Vendor shall, on or before the 3rd Business Day of each month, provide the Board with a true and detailed report of the total milk receipts and total utilization by classes of milk during the immediately preceding month, in such form as the Board may from time to time prescribe.
- (2) Every Vendor shall authorize and cause its contracting laboratory to provide directly to the Board, on a monthly basis, a report detailing the results of milk component tests conducted four times monthly.
- (3) Every Transporter shall, on or before the 5th calendar day of each month, provide the Board with a true and detailed report of the total milk receipts during the immediately preceding month, in such form as the Board may from time to time prescribe.

Vendor and Transporter Records to be Available for Inspection

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

Licensees to Provide Information and Permit Inspection

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

Inspection of Producer's Premises

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

PART XIII - PROHIBITIONS

Producer or Producer Vendor

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

Vendor

50. (1) No Vendor shall buy or offer to buy milk from a Producer except through the Board.
- (2) No Vendor shall receive milk from a Transporter who is not the holder of a Valid Transporter's Licence issued by the Board.
- (3) No Vendor shall by any means separate or remove protein from fluid milk.

Transporter

51. (1) No Transporter shall receive milk from a Producer except in accordance with a written agreement made between that Transporter and the Board concerning the terms and conditions of transport.
- (2) [*repealed - A.O. 27*].
- (3) No Transporter shall receive milk from a Vendor who is not the holder of a Valid Licence issued by the Board.

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PART XIV - COMPLIANCE

Suspension or Cancellation

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

Hearings

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

Board May Review, Vary or Rescind Decision

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

Seizure

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

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

PART XV - COMMITTEES

Appointment of Advisory Committees

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

British Columbia Milk Industry Advisory Committee

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

Audit Advisory Committee

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

Transportation Advisory Committee

59. (1) There is hereby established a transportation advisory committee called the British Columbia Milk Marketing Board Transportation Advisory Committee ("B.C.M.M.B.T.A.C.") consisting of not less than fifteen (15) members whose function will be to advise and make recommendations to the Board on matters relating to:
- (a) that part of the marketing costs and losses levy rate imposed by the Board on Producers relating to:
 - (i) the cost of each occasion that a Transporter attends at a Producer's dairy farm to receive milk into a tank milk truck; and

- (ii) the milk or cream Delivered by a Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (b) the methodology used by the Board to determine the payment to Transporters for and on account of the services provided by such Transporters under and in accordance with a written agreement with the Board concerning the transportation of milk.
- (2) The Members of the B.C.M.M.B.T.A.C. shall be appointed at the pleasure of the Board as follows:
- (a) Except for the Remote Region, Producers representative of each of the zones described in section 2 of Schedule 6 herein;
 - (b) four (4) Transporter representatives;
 - (c) one (1) Board member, who shall act as the Chair of the B.C.M.M.B.T.A.C.; and
 - (d) one (1) Processor representative from the B.C. Dairy Council.
- (3) Any Person appointed to the B.C.M.M.B.T.A.C. by reason of holding a position on the Board shall cease to be a member of the B.C.M.M.B.T.A.C. at the same time that such Person ceases to hold a position on the Board.

Special Milk Product Advisory Committee

60. (1) There is hereby established a specialty milk product advisory committee called the British Columbia Milk Marketing Board Specialty Milk Product Advisory Committee ("SMPAC") consisting of not less than five (5) members whose function will be to advise and make recommendations to the Board on matters relating to:
- (a) that part of the levy rate imposed by the Board on Producers of a Specialty Product having regard to administration expenses of the Board in relation to Specialty Product Producers and including but not limited to the costs of the SMPAC;
 - (b) the volume requirements of Specialty Product Vendors;
 - (c) the Organic Milk Premium payable by Vendors to Producers of a Specialty Product;
 - (d) the transportation levy that may be applied to producers of milk for Specialty Product; and

- (e) the number of new producers to be invited to convert their mainstream production to certified organic milk for Specialty Product.
- (2) The Members of the S.M.P.A.C. shall be appointed at the pleasure of the Board as follows:
 - (a) one independent chair;
 - (b) one Specialty Product Vendor;
 - (c) one Specialty Product Producer;
 - (d) one Cottage Industry Program Producer of a Specialty Product;
 - (e) one Board member; and
 - (f) an unspecified number of Persons who have the capacity to broaden the scope of experience available to the S.M.P.A.C.

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PART XVI - MISCELLANEOUS

Forms

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

Revocation and Transition

61. The Board's Consolidated Order of October 1, 2001, as amended, is hereby revoked, but such revocation shall not affect any offences committed or any penalty incurred under the Consolidated Order so revoked.

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Commencement

62. This Consolidated Order comes into effect on April 1, 2006.

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DATED AT VANCOUVER, BRITISH COLUMBIA, THIS DAY OF March, 2006.

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Deleted: SEPTEMBER

BRITISH COLUMBIA MILK MARKETING BOARD

Deleted: 1

B. Gorrell, Chairman

B. Cuthbert, Vice-Chairman

B. Jansen, Secretary-Treasurer

D. Aarts, Member

J. Pruijm, Member

G. Zonneveld, Member

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

Graduated Entry Program Rules

Application

1. (1) A Person may apply to participate in the Graduated Entry Program by filing with the Board:
 - (a) an application form, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public;
 - (b) a copy of the applicant's birth certificate or other proof of age acceptable to the Board;
 - (c) proof of Canadian citizenship or permanent resident status;
 - (d) proof of permanent resident status in the Province of British Columbia; and
 - (e) a non-refundable application fee of \$250.00.

- (2) A Person seeking to participate in the program must have the following qualifications:
 - (a) a genuine intention to be actively engaged in milk production;
 - (b) be a Canadian citizen or permanent resident of Canada;
 - (c) be a permanent resident in the Province of British Columbia;
 - (d) be at least 19 years of age at the time of application; and
 - (e) neither the applicant nor the spouse of the applicant may have, or have had at any time, any financial interest in Total Production Quota, or any other licence, permit or quota issued or granted by any other supply management commodity board, whether directly or indirectly, or through any organization or entity.

- (3) An applicant for the Graduated Entry Program may be a partnership in which case each partner must qualify under subsection (2).

Wait List

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

Entry in Program

3. (1) The Board:
 - (a) will invite a minimum of three applicants to enter the Graduated Entry Program each year;
 - (b) may establish a maximum number of applicants who will be invited to enter the Graduated Entry Program in a year and that maximum number may vary from year to year; and

- (c) may, in its sole discretion, preferentially invite an applicant to enter the Graduated Entry Program where that applicant has a genuine intention to be actively engaged in specialty milk production, subject to the applicant's place on the wait list relative to any other applicants having a genuine intention to be actively engaged in specialty milk production.
- (2) Where an applicant from the wait list is invited by the Board to become an entrant to the Graduated Entry Program, the following provisions apply:
- (a) the entrant shall file a "Program Entry" application, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public;
 - (b) in the event the entrant is in breach of any of those matters which would cause an applicant to be struck off the wait list, the entrant's invitation shall be revoked;
 - (c) the entrant shall obtain a Producer licence from the Board of the appropriate class;
 - (d) the entrant, including all partners if the entrant is a partnership, must meet with the Board prior to August 1 of the year when the invitation is extended and must present a 5 year business plan, containing information deemed appropriate by the Board;
 - (e) commencing August 1, upon receipt of the production of a qualifying entrant by the designated Vendor, the Board will allot to the entrant 5,000 kilograms of restricted Total Production Quota. If the entrant commences production after August and between September and the following January 31, the allotment of restricted Total Production Quota for that Dairy Year will be reduced by 8.5% for each month preceding the date that production commences, for that Dairy Year only;
 - (f) the entrant must commence production between August 1 and the following January 31, failing which the entrant's participation in the program shall be terminated.

Special Restrictions on Allotments Under the Program

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

(c) is actively engaged in milk production;

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

- (2) Restricted Total Production Quota allotted by the Board under the program is not Transferable.
- (3) Notwithstanding subsection (2), in the event of the entrant's death or permanent incapacity rendering the applicant wholly incapable of being actively engaged in milk production, or in the event of other exceptional circumstances, the Board may, in its sole discretion, permit a Transfer of restricted Total Production Quota allotted by the Board under the program to the entrant's:
 - (a) spouse;
 - (b) child;
 - (c) child and the child's spouse;
 - (d) grandchild; or
 - (e) grandchild and the grandchild's spouse;

provided that each Transferee is qualified to participate in the program and assumes all of the responsibilities of the entrant, and remains subject to all of the terms and conditions governing the entrant under the program.

Purchase or Acquisition of Additional Total Production Quota

5. (1) An entrant may purchase or acquire Total Production Quota, and such Total Production Quota may be Transferred, subject to the surrender provisions of the Consolidated Order.
- (2) Entrants are eligible to receive general allotments of new Total Production Quota and are subject to general adjustments or reductions of Total Production Quota.
- (3) All receipts, adjustments or reductions referred to in subsection (2) shall be calculated against the Total Production Quota then allotted to the entrant other than under the program.

Matching Allotment of Restricted Total Production Quota

6. (1) Where an entrant purchases or acquires Total Production Quota (other than by a general allotment of new Total Production Quota) within five years from the date that the entrant commences production, the Board will allot to the entrant an equivalent amount of restricted Total Production Quota, up to a maximum of 2,000 kilograms of restricted Total Production Quota.
- (2) Matching allotments of restricted Total Production Quota made by the Board under subsection (1) are subject to:
 - (a) the special restrictions described in section 4;
 - (b) immediate cancellation, on notice by the Board to the entrant, where the entrant has Transferred all or some of the Total Production Quota purchased or acquired by the entrant and providing the basis for the matching allotment of restricted Total Production Quota.

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

7. (1) The Board will determine, in its sole discretion, whether an entrant is actively engaged in milk production for the purposes of the program. Without limiting the generality of the foregoing, the Board will have regard to the following factors:
 - (a) whether the restricted Total Production Quota allotted under the program is being used for the benefit of the entrant;
 - (b) whether the entrant is active in the day-to-day affairs of the dairy farm, including matters of animal husbandry;
 - (c) whether the entrant operates and controls the dairy farm;
 - (d) whether the entrant owns, leases or rents the dairy farm;
 - (e) whether the entrant pays for feed and other farm supplies utilized on the dairy farm; and
 - (f) whether the entrant enjoys the chance of profit and bears the risk of loss in relation to the operations of the dairy farm.
- (2) For the purpose of determining whether the entrant is actively engaged in the production of milk, the Board shall have regard to the substance and effect of any arrangement made between the entrant and any other Person, irrespective of the form of that arrangement.

- (3) Where it appears to the Board that the entrant is primarily engaged in the business of administering restricted Total Production Quota allotted under the program, and that some other Person is primarily engaged in the business of milk production associated with that restricted Total Production Quota, the entrant shall be deemed not to be actively engaged in milk production.

Changes to the Graduated Entry Program

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

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

Cottage Industry Program Rules

Application

1. (1) These Rules apply to all existing Cottage Industry Program Participants. Where the provisions of the Consolidated Order are inconsistent with the terms of any Agreements made between the Board and any existing Cottage Industry Program Participant, the provisions of the Consolidated Order shall govern and be binding upon such existing Cottage Industry Program Participant.

- (2) A Person who has not previously participated in the Cottage Industry Program or predecessor program may apply to participate in the Cottage Industry Program by filing with the Board an application form, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public.

- (3) A Person seeking to participate in the program must undertake in writing:
 - (a) not to own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;
 - (b) to operate a Dairy Plant on a dairy farm owned by that Person;
 - (c) to process at that Dairy Plant only milk produced by that Person's own cows;
 - (d) to process such milk at that Dairy Plant only into specified manufactured milk products approved by the Board;
 - (e) to market such specified manufactured milk products only in a consumer-ready form at the time of sale;
 - (f) not to receive milk from another Vendor or Producer;
 - (g) not to market fluid milk;
 - (h) to permanently install and maintain as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

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

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Year of Program . Percentage Reduction to Annual Allotment¶
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Year 1 0% (but pro-rated)¶
Year 2 0%¶
Year 3 20%¶
Year 4 40%¶
Year 5 60%¶
Year 6 80%¶
Year 7 100%
Deleted: The aggregated amount of temporary Total Production Quota allotted to all successful applicants under this section shall not exceed 30,000 kilograms at any one time.¶

Total Production Quota

- 2. (1) Where an applicant has provided a written undertaking acceptable to the Board and is not in breach of it, and where the Board has issued a Class "D" Restricted Producer Vendor Licence to such Person, the Board may allot restricted Total Production Quota to that Person, on such terms and conditions as the Board considers appropriate.
- (2) Such restricted Total Production Quota shall be non-Transferable, for use only during the Dairy Year of allotment and will revert to the Board at the end of each Dairy Year, or such earlier date as may be specified by the Board.
- (3) In the first Dairy Year of the Person's participation in the program, such restricted Total Production Quota shall be allotted on the first day of the month following the issuance of the Class "D" Restricted Producer Vendor Licence, in an amount not to exceed 5,000 kilograms of restricted Total Production Quota. In each subsequent Dairy Year the annual restricted Total Production Quota shall be allotted on the first day of the Dairy Year. The annual allotment of restricted Total Production Quota may be up to but shall not exceed 5,000 kilograms as reported to the Board for production of the approved products.
- (4) Provided that the participant:

- (a) continues to permit Board audits of the dairy operation to ensure compliance with the Board orders and all applicable legislation, including all terms and conditions of the Cottage Industry Program; and
- (b) is in good standing with all applicable Board orders and all applicable legislation, including all terms and conditions of the Cottage Industry Program;

the Board will convert 10% of the restricted Total Production Quota issued to the participant to an equivalent amount of transferable Total Production Quota after each year in which the participant has been continually, actively engaged in the Cottage Industry Program. On reaching the tenth year in the program 90% of the restricted Total Production Quota reported as used will be converted to transferable Total Production Quota to a maximum of 4,500 kilograms.

- (5) Cottage Industry Program participants may acquire Total Production Quota by Transfer from another Producer in accordance with the provisions of the Consolidated Order.

Conditions and Prohibitions

3. A Cottage Industry Program participant shall:

- (a) not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;
- (b) operate a Dairy Plant on a dairy farm owned by that Person;
- (c) process at that Dairy Plant only milk produced by that Person's own cows;
- (d) process such milk at that Dairy Plant only into specified manufactured milk products approved by the Board;
- (e) market such specified manufactured milk products only in a consumer-ready form at the time of sale;
- (f) not receive milk from another Vendor or Producer;
- (g) not market fluid milk;
- (h) permanently install and maintain as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

Deleted: 's dairy farm

- (i) in the alternative to (h), at that Person's expense, commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;
- (j) not sell, ship for sale or offer for sale any milk produced on the farm without the written approval of the Board;
- (k) pay promptly any and all amounts charged to that Person by the Board for over quota production;
- (l) cease production in the event of non-compliance with orders of the Board from time to time in force; and
- (m) provide such securities or assurances as the Board may require from time to time.

Determination of Value of Over Quota Production

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

- (b) the protein amount (determined by multiplying the kilograms of protein in each class by the applicable protein value published in Schedule 4 herein);
- (c) the other solids amount (determined by multiplying the kilograms of other solids in each class by the applicable other solids value published in Schedule 4 herein);

- (4) Each month, the Board will charge to each Cottage Industry Program participant the gross dollar amount of over quota production calculated in accordance with subsection 4(3). The gross dollar amount of such over quota production, less the rebate determined by the Board in accordance with section 5, is due on the 10th Business Day after the end of that month.

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Determination of Rebate, If Any, for Over Quota Production

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

Matching Allotment of Restricted Total Production Quota

- 6. (1) Where the Cottage Industry Program participant purchases or acquires Total Production Quota (other than by a general allotment of new Total Production Quota) within five years from the date that the participant commences production, the Board will allot to the participant an equivalent amount of restricted Total Production Quota, up to a maximum of 2,000 kilograms of restricted Total Production Quota.
- (2) Matching allotments of restricted Total Production Quota made by the Board under subsection (1) are subject to:
 - (a) The special conversion privilege described in section 2.(4) to a maximum of 1,800 kilograms.
 - (b) immediate cancellation, on notice by the Board to the participant, where the participant has Transferred all or some of the Total Production Quota purchased or acquired by the participant and providing the basis for the matching allotment of restricted Total Production Quota.

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

QUOTA EXCHANGE RULES

General

1. (1) These rules are to be read with the Consolidated Order.
- (2) The Board reserves the right to limit a Person's participation in the Quota Exchange.
- (3) The Board has no liability or obligation to a Person in the event an exchange is cancelled.
- (4) All Quota exchanges will be held twice monthly, provided that no Quota exchange shall be held in the month of July.
- (5) Where Total Production Quota allotted or acquired is Transferred, the Transferor shall surrender to the Board an amount of Total Production Quota equivalent to 2.5% of the amount of Total Production Quota being Transferred.

Types of Exchanges

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

Eligibility to Transfer

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

Producers Leaving the Industry

4. (1) A Producer intending to leave the regulated dairy industry must inform the Board of the date that Total Production Quota production will cease.
- (2) After the month in which final production is reported to the Board by the Vendor receiving the Producer's milk the Producer may offer for sale any remaining Total Production Quota on the next six consecutive Quota Exchanges.
- (3) Any Total Production Quota remaining unsold after the sixth Quota Exchange referred to in the preceding paragraph will be cancelled and will revert to the Board.

Assignment of Total Production Quota Security Agreement

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

Farm Inspection

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

How to Use the Exchange

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

- (b) for the second exchange occurring in a month, after 4:30 p.m. on the 14th day of the month preceding the month in which the Transfer is to occur;

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

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

Total Production Quota Exchange Date

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

Effective Date of Transfer

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

Minimum Sale Price

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

Maximum Purchase Price

11. (1) The offer to buy price contained in the Transfer application form shall be the maximum price that the buyer is prepared to pay for Total Production Quota being offered for sale, and must be expressed as a price divisible by \$0.25.
- (2) If the market clearing price is above the maximum price contained in the Transfer application, Total Production Quota will not be Transferred.
- (3) If the market clearing price is equal to or less than the maximum price contained in the Transfer application, Total Production Quota will be Transferred.

Calculation of the Market Clearing Price

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

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

Transfer of Total Production Quota

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

More than One Offer to Sell or Offer to Buy

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

Minimum Amount of Total Production Quota for Offer to Sell

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

Minimum Amount of Total Production Quota for Offer to Buy

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

Security

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

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

- (9) If a cheque provided to the Board hereunder becomes non-negotiable by reason of insufficient funds, stop-payment or otherwise:
 - (a) the application(s) made by such Person providing such non-negotiable cheque shall be considered as withdrawn by such Person;
 - (b) the Board shall not consider for that Total Production Quota exchange any of the applications made by such Person providing the non-negotiable cheque(s); and
 - (c) the Board reserves the right to claim from such Person the whole of their down payment made as damages suffered by the Board.
- (10) The Board shall advise any Person so eliminated from the exchange as a result of a non-negotiable cheque of that fact.

Notification and Payment

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

- (b) the 10% down payment made has been forfeited to the Board or is being returned to such Person.
- (4) Any Person providing the Board with a cheque(s) which cannot be negotiated by the Board shall be liable to the Board for:
 - (a) all costs incurred by the Board as a result of such non-negotiable cheque(s), including but not limited to all banking charges and legal costs; and
 - (b) damages equal to the amount of the cheque(s) provided and if such cheque(s) cannot be negotiated by the Board so that the Board has not received the monies representing the down payment forfeited, the Board may pursue all remedies available to it at law, including set-off, to recover from such Person damages equal to the aggregate of such amount forfeited and all legal costs incurred in pursuing such remedies;
- (5) Payment to a successful seller will be calculated by multiplying the Market Clearing Price for an exchange by the amount of Total Production Quota sold by that seller on that exchange.
- (6) Payment will be made by cheque drawn on the Total Production Quota exchange trust account post dated to the last Business Day of the month in which the sale occurred, and sent by registered mail to the address shown on the Total Production Quota Transfer application form subject to the Assignment of Total Production Quota Security provisions above. Should the amount of Total Production Quota sold by successful sellers be reduced by reason of subsection (4), then it may be necessary for the Board to place stop-payment on any cheques already issued to successful sellers and to issue new cheques to successful sellers.
- (7) The results of each Total Production Quota Exchange will be published monthly by the Board to all Producers and Persons participating in the exchange.

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

**MINIMUM PRICES FOR CLASSES OF MILK
EFFECTIVE April 1, 2006**

CLASS OF MILK	BUTTERFAT PRICE \$/Kg	PROTEIN PRICE \$/Kg	OTHER SOLIDS PRICE \$/Kg
Class 1(a)			
Class 1(b)(i)			
Class 1(b)(ii)			
Class 1(c)			
Class 1(c)(i)			
Class 1(d)			
Class 2			
Class 3(a)			
Class 3(b)			
Class 4(a)			
Class 4(a)(i)			
Class 4(b)			
Class 4(c)			
Class 4(c)(i)			
Class 4(d)			
Class 4(d)(i)			
Class 4(m)	***	***	***
Class 5(a)			
Class 5(b)			
Class 5(c)			
Class 5(d)	***	***	***

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

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

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

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

April 1, 2006

MINIMUM ADVANCE PAYMENT
TO BE MADE BY POOL PARTICIPANT VENDORS
EFFECTIVE [February 1, 2006](#)

\$46.8300 per hectolitre of skim milk

\$5.3000 per kilogram of butterfat

MINIMUM ADVANCE PAYMENT
TO BE MADE TO POOL PARTICIPANT PRODUCERS
EFFECTIVE [February 1, 2006](#)

\$46.8300 per hectolitre of skim milk contained in the lesser of:

- A. The number of litres calculated as follows:

$$\frac{(\textit{Minimum Daily TPQ}^* \times 15) + \textit{Unused Available Margin}^*}{\textit{Producer's current Butterfat Test}}$$

OR

- B. 95% of the number of litres of Qualifying Milk actually Delivered during the previous month divided by the number of days shipped for the previous month and multiplied by 15.

\$5.3000 per kilogram of butterfat calculated on the lesser of:

- A. The number of kilograms calculated as follows:

$$(\textit{Minimum Daily TPQ}^* \times 15) + \textit{Unused Available Margin}^*$$

OR

- B. 95% of the number of kilograms of butterfat contained in the Qualifying Milk actually Delivered during the previous month divided by the number of days shipped for the previous month and multiplied by 15.

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

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

PROTEIN AND OTHER SOLIDS FORMULA

Step One

Calculate the pure protein test value:

$$\text{Pure Protein Test Value} = \text{kilograms of protein in raw milk} \div [\text{total litres of raw milk} - (\text{kilograms of butterfat in raw milk} \div \text{butterfat density})]$$

Calculate the pure other solids test value:

$$\text{Pure Other Solids Test Value} = \text{kilograms of other solids in raw milk} \div [\text{total litres of raw milk} - (\text{kilograms of butterfat in raw milk} \div \text{butterfat density})]$$

Step Two

Calculate the skim milk equivalent for each class:

$$\text{Skim Equivalent for Class "Y"} = \text{litres of milk in Class "Y"} - (\text{kilograms of butterfat in milk of Class "Y"} \div \text{butterfat density})$$

Step Three

Calculate the actual component utilization for each class:

$$\text{Protein Utilization for Class "Y"} = \text{Skim Equivalent for Class "Y"} \times \text{Pure Protein Test Value}$$

$$\text{Other Solids Utilization for Class "Y"} = \text{Skim Equivalent for Class "Y"} \times \text{Pure Other Solids Test Value}$$

Step Four

Calculate the accounting value for each class:

For Classes 1, 2 and 4:

$$\text{Other Solids Accounting Value for Class "Y"} = \text{skim value per hectolitre} \div (\text{Protein Utilization for Class "Y"} + \text{Other Solids Utilization for Class "Y"})$$

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

For Class 3:

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

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

LEVIES

Producer Levies

1. Levies are fixed and imposed on each Producer as follows:
 - (a) \$0.16 per hectolitre of milk or cream Delivered by a Producer, for administration.

2. A marketing costs and losses levy is fixed and imposed on Producers as follows:
 - (a) where the Producer is situate in the Bulkley Valley:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and
 - (iii) \$9.83 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (b) where the Producer is situate in the Cariboo:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and
 - (iii) \$7.51 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
 - (c) where the Producer is situate in the Fraser Valley:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and

- (iii) \$0.00 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (d) where the Producer is situate in the Kootenays:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and
 - (iii) \$6.52 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (e) where the Producer is situate in the Okanagan:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and
 - (iii) \$3.18 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (f) where the Producer is situate in the Peace River:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and
 - (iii) \$4.74 per hectolitre of milk or cream Delivered by that Producer in excess of 100% of that Producer's within quota production as determined by the Board;
- (g) where the Producer is situate in Vancouver Island North:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and

- (iii) \$4.05 per hectolitre of milk or cream Delivered by that Producer:
 - A. in excess of 100% of that Producer's within quota production as determined by the Board; and
 - B. To a Dairy Plant not situate within Vancouver Island North or Vancouver Island South.
- (h) where the Producer is situate in Vancouver Island South:
 - (i) \$8.00 on each occasion that a Transporter attends at that Producer's dairy farm to receive milk into a tank milk truck;
 - (ii) \$0.01 per hectolitre of milk or cream Delivered by that Producer; and
 - (iii) \$3.65 per hectolitre of milk or cream Delivered by that Producer:
 - A. in excess of 100% of that Producer's within quota production as determined by the Board; and
 - B. To a Dairy Plant not situate within Vancouver Island North or Vancouver Island South.
- (i) where the Producer is situate in a Remote Region, the Producer shall pay the marketing costs and losses levy applicable in the next closest region, plus the greater of:
 - (i) \$100.00 for each Delivery of milk or cream; or
 - (ii) \$2.30 per Transporter route kilometre for each Delivery of milk or cream, calculated at the distance between the Producer's dairy farm and the closest border of the next closest region.
- 3. An annual levy of \$190.00 is fixed and imposed on each Producer operating under:
 - (a) a Class "C" Producer Licence and a Class "C-FED" Producer Licence; or
 - (b) a Class "D" Restricted Producer Vendor Licence;

Vendor Levies

4. An administration levy is fixed and imposed on each Vendor holding a Class "A" and Class "A-FED" Vendor Licence, or a Class "B" Vendor Licence, in the amount of \$0.11 per hectolitre on Deliveries of milk or cream received for processing and processed.
5. An accommodation levy is fixed and imposed on each Vendor holding a Class "A" and Class "A-FED" Vendor Licence, or a Class "B" Vendor Licence, in the amount of \$0.30 per hectolitre on Deliveries of milk or cream received for processing and processed.
6. An annual levy of \$190.00 is fixed and imposed on each Vendor operating under:
 - (a) a Class "A" Vendor Licence and a Class "A-FED" Vendor Licence; or
 - (b) a Class "B" Vendor Licence.
7. A marketing costs and losses levy is fixed and imposed on each Vendor in the amount of \$1.27 per hectolitre of milk or cream reported or otherwise properly reportable by the Vendor as a Class 1(a), Class 1(b)(i) or Class 1(c) product.

Transporter Levies

8. An annual levy of \$190.00 is fixed and imposed on each Transporter operating under a Class "H" Transporter Licence and a Class "H-FED" Transporter Licence.

**SCHEDULE 7
TO THE BRITISH COLUMBIA MILK MARKETING BOARD
CONSOLIDATED ORDER**

MILK TRANSPORTATION RULES

Transport of Milk from Producers

1. Every licensed Transporter shall cause a certified tank milk truck to attend at the dairy farm of such Producers as may be assigned to the Transporter by the Board from time to time, at intervals of not more than two days (or at such other intervals as the Board may direct from time to time) and shall cause the Operator to:
 - (a) receive into the tank milk truck, milk from the Producer's farm holding tank, in accordance with the requirements of the *Milk Industry Act*;
 - (b) take true and representative samples of milk from each Producer's farm holding tank as required under the *Milk Industry Act*;
 - (c) measure the volume of milk received from each Producer's farm holding tank as required under the *Milk Industry Act*;
 - (d) forthwith provide to each Producer an accurate receipt for the milk received from that Producer's farm holding tank, in a form approved by the Board;
 - (e) promptly transport and deliver the milk received to the Vendor or Vendors designated by the Board from time to time;
 - (f) prepare a manifest, in a form approved by the Board, for each load of milk delivered to a Vendor;
 - (g) obtain from each Vendor an endorsement on the applicable manifest representing an acknowledgment of receipt for the load of milk delivered to that Vendor; and
 - (h) forthwith provide to the Board and to the Vendor a copy of the applicable manifest.

Transport of Milk from Non-Producers

2. Every Transporter shall cause a certified tank milk truck to attend at such location or locations and at such time or times as the Board may direct from time to time, and shall cause the Operator to:
 - (a) receive milk into the tank milk truck as directed by the Board and in accordance with the requirements of the *Milk Industry Act*;

- (b) take true and representative samples of such milk as required under the *Milk Industry Act*;
- (c) forthwith provide an accurate receipt for the milk so received in a form approved by the Board;
- (d) promptly transport and deliver the milk so received to the Vendor or Vendors, or to such Person or Persons, as the Board may from time to time direct;
- (e) prepare a manifest, in a form approved by the Board, for each load of milk so delivered;
- (f) obtain from each Vendor, or from each such other Person as may be applicable in the circumstances, an endorsement on the applicable manifest representing an acknowledgment of receipt for the load of milk so delivered to that Vendor or to such other Person; and
- (g) forthwith provide to the Board and to the Vendor, or to such other Person as may be applicable in the circumstances, a copy of the applicable manifest.

General Transporter Obligations

- 3. In the event that a Transporter is for any reason unable to attend at the dairy farm of a Producer, or at such other location as the Board may direct, or to receive milk into the tank milk truck, such Transporter shall forthwith notify the Board.
- 4. Every Transporter shall forthwith notify the Board of any possible or impending strike by the Transporter's employees, agents or Operators.
- 5. (1) No Transporter shall display any decal, decals or other advertisement upon any milk tank operated by it except as may be approved or directed by the Board in writing.
(2) Subsection (1) does not apply to a Transporter that is wholly owned and operated by a Vendor duly licensed by the Board.
- 6. Every Transporter shall at all times carry adequate insurance as may be determined by the Board from time to time.
- 7. Every Transporter shall abide by all Board directions, including any direction made by the Board from time to time to deliver written materials to all or any of those Producers assigned to the Transporter, and shall abide by all applicable provisions of the *Milk Industry Act*, the B.C. Act, and the Board's Consolidated Order, all as amended from time to time.

8. No Transporter shall represent itself to be an agent of the Board for any purpose.
9. Every Transporter is solely responsible for the discharge of its obligations and liabilities to third parties and shall have no right to indemnity or contribution from the Board.

Advertising

10. (1) The Board may direct a Transporter to apply a decal, decals or other advertisement upon each or any milk tank operated by the Transporter provided that:
 - (a) the Board shall assume all costs associated with the application and maintenance of the decal, decals or other advertisement at such rate or fee as the Board and the Transporter may agree upon; and
 - (b) the Transporter shall forthwith remove such decal, decals or other advertisement at its own expense upon removal of the milk tank from milk transportation service.
- (2) Subsection (1) does not apply to a Transporter that is wholly owned and operated by a Vendor duly licensed by the Board.

Payments and Transporter

11. The Board will make payment to each Transporter for and on account of the services provided by the Transporter at and for the rate specified in the proposal submitted by that Transporter and approved by the Board.

Suspension or Cancellation of Transporter Licence

12. The Board may suspend or cancel the licence held by a Transporter:
 - (a) in the event of any default by the Transporter of its obligation to abide by any Board direction regarding the transportation of milk, or of its obligation to abide by any applicable provision of the *Milk Industry Act*, the B.C. Act, or the Board's Consolidated Order, all as amended from time to time;
 - (b) in the event that the Transporter has notified the Board of any possible or impending strike by the Transporter's employees, agents or Operators;
 - (c) in the event that the Transporter ceases to function as a going concern, or otherwise continues to operate through a receiver appointed with

respect to it, or in the event that the Transporter makes a proposal or an assignment for the benefit of creditors.