

## WINTER GRAZING AGREEMENT

Made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

1. THE OWNER

(Full names and address and occupation of the owner of the stock)

2. THE GRAZIER

(Full names and address of and occupation of the occupier of the land)

The Parties agree that the Grazier shall graze the Stock described in the reference schedule on the Land described in the reference schedule for the fee and on the terms and conditions set out in the reference schedule and the second schedule to this agreement.

SIGNED by the Owner (by the affixing  
of its common seal if a Company)  
in the presence of:

WARNING:  
Professional advice should  
be sought before signing

Witness: .....

Occupation: .....

Address: .....

SIGNED by the Grazier (by the affixing  
of its common seal if a company)  
in the presence of:

Witness: .....

Occupation: .....

Address: .....

STOCK SCHEDULE

(Describe stock by identification tag, age of animal, type and breed and/or attach Livestock Improvement cow listing and/or other means of identification)

NOTE: For "type" show as described in reference schedule 1.3, and for weight and/or condition score weigh a sample of cows, i.e every 10th cow)

ID No.	Tag No.	Age	Type	Breed	Weight and/or Condition Score
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REFERENCE SCHEDULE

1.1 The Land (Clause 2.1)

The Land situated at \_\_\_\_\_

(address of farm)

and legally described as \_\_\_\_\_ hectares more or less being

(area)

\_\_\_\_\_  
(full legal description of land including TB and DDT status)

and being all the land comprised in Certificate of Title:

Volume \_\_\_\_\_ Folio \_\_\_\_\_ Land Registry \_\_\_\_\_.

1.2 Term (Clause 4.0)

The term shall commence on \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

and the termination date shall be the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

1.3. Stock to be Grazed:

Type

Number at

Commencement

In-calf Dairy cows & heifers (older than 2 yrs)

\_\_\_\_\_

In-calf Rising 2 year olds

\_\_\_\_\_

1.4 Feed Available

A list of the feed sources available for the term of the agreement.

Pasture:

An Area of \_\_\_\_\_ hectares of pasture

Supplements:

\_\_\_\_\_ standard bales of hay or silage.

(state number)

\_\_\_\_\_ hectares of a \_\_\_\_\_ crop

Other Supplements (State type and Quantity)

Type

Quantity

### 1.5 Magnesium Oxide

Magnesium oxide will be dusted on the pasture from the \_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at a daily rate of \_\_\_\_\_ grams per cow, as specified in clauses 7.3 (f) and 7.1 (d).

### 1.6 Interest on overdue grazing fees (clause 6.4)

\_\_\_\_\_ % per annum (compounding monthly)  
(penalty percentage rate)

### 1.7 Payment of grazing fees (clause 6.1)

Grazing Fees shall be paid -in advance on the first day of each week/month  
from the Commencement date. (delete one)

OR (delete one option) -in arrears on the last day of each week/month  
from the Commencement date. (delete one)

by weekly/monthly instalmentŒs of \$ \_\_\_\_\_ plus GST as calculated in the following  
(delete one)  
payment schedules (Weight Gain or Purchased Dry Matter).

#### a. Grazing Management

The Owner and Grazier agree that the following practices for on/off winter grazing will be acceptable: (Identify the suitability of stand-off areas and maximum time periods stock will be on or off pasture).

The grazing agreement now splits into either a payment system based on Weight Gain or Purchased Dry Matter. Delete the option not required:

Weight Gain Based Payments

1.9 Grazing Fees

Type	Weekly Rate Per Head
In-calf Dairy cows & heifers (older than 2 yrs)	\$ _____
In-calf Rising 2 year olds	\$ _____

Performance Based Payments (Clause 6.2):

Payment will be \$ \_\_\_\_\_ per kg Liveweight Gain or Condition Score gain as set in Clause 1.9. (delete one)

and a penalty of \$ \_\_\_\_\_ per kg liveweight or Condition Score will apply for failing to meet targets set in Clause 1.9. (delete one)

1.10 Liveweight or Condition Score Targets

Liveweight (payment will be based on the Mob Liveweight gain, excluding pregnancy gain):

	Number of Animals	Average Liveweight at Start Date	Pregnancy Gain (Weeks of Agreement x 3.8 kg/week)	Liveweight Gain per Animal	Average Liveweight at End Date	Total Mob Liveweight Gain (No. Animals x Liveweight Gain /animal) (A x D)
	(A)	(B)	(C)	(D)	(B+C+D)	
Target:						
Actual:						

or Condition Score:

	Number Animals	Average Condition Score at Start Date	Condition Score at End Date	Condition Score Gain per Animal	Total Condition Score Gained (No. Animals x Condition Score Gain per animal)
Target:					
Actual:					

(Delete either Liveweight or Condition Score Target Table)

The condition score assessment will be by mutual agreement in the first instance, or to be monitored by \_\_\_\_\_.  
(Specify Consultant)

### 1.11 Final Payment and Penalty payment

Final Payment at the end of the agreement:

$$\frac{\text{_____}}{\text{(Target Weight or Condition Score Gain for mob)}} \times \$ \frac{\text{_____}}{\text{(Weight Gain Fee per kg liveweight or condition score)}}$$

= \$ \_\_\_\_\_.

MINUS Penalty of:

$$\frac{\text{_____}}{\text{(Target Weight Gain for mob)}} \text{ kg minus } \frac{\text{_____}}{\text{(Actual mob Weight Gain)}} \text{ kg} \times \$ \frac{\text{_____}}{\text{(Penalty Weight Gain Fee)}}$$

= \$ \_\_\_\_\_ if the mob is under target weight at finish date.

Purchased Dry Matter at Agreed Feeding Levels

1.12 Feed Values (assessed at commencement of agreement)

	<u>c/kg DM</u>
Pasture	\$ _____
Hay	\$ _____
Silage	\$ _____
Crop (specify type _____)	\$ _____
Other (specify type _____)	\$ _____

1.13 Feeding Levels

The cows will be fed not less than \_\_\_\_\_ kg DM/cow/day (Winter Pasture Equivalent) of which \_\_\_\_\_ kg DM will be pasture DM, with \_\_\_\_\_ kg DM of \_\_\_\_\_ and \_\_\_\_\_ kg DM of \_\_\_\_\_.

(specify feed) (specify feed)  
For the period of \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ to \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.  
(Day) (Month) (Day) (Month)

and (Delete Second Time Period if not Required)

he cows will be fed not less than \_\_\_\_\_ kg DM/cow/day (Winter Pasture Equivalent) of which \_\_\_\_\_ kg DM will be pasture DM, with \_\_\_\_\_ kg DM of \_\_\_\_\_ and \_\_\_\_\_ kg DM of \_\_\_\_\_.

(specify feed) (specify feed)  
For the period of \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ to \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.  
(Day) (Month) (Day) (Month)

This will be by mutual agreement or monitored by \_\_\_\_\_ on \_\_\_\_\_ basis.  
(Specify Consultant or Equipment) (Specify time period)

1.14 Weekly Fee for Purchased Feed

No. of Cows (A)	Supplement Type	kg DM /cow/day (B)	kg DM for Mob /day (A x B)	c/kg DM (C)	Weekly Fee for Stock Feeds. (A x B x C x 7)
	Pasture Hay Silage Crop (_____)				
	Other (_____)				
				TOTAL	\$ /week

1.15 Maximum numbers, class and type of stock (clause 3.2)

The Grazier shall during the term of this agreement not graze at any one time more than \_\_\_\_\_ Dry cows on the Area specified in clause 1.4.  
(maximum number)

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## SECOND SCHEDULE

### 2.0 Definitions and Interpretation

#### 2.1 Definitions

In this Agreement unless the context otherwise requires:

"the Commencement Date" means the date provided in clause 1.2 on which the term shall commence;

"the agreement" includes any schedule forming part of this agreement;

"Final Weight or Condition Score" means the weight established under clause 5.6;

"Final Weighing or Condition Scoring" means the weighing required by Clause 5.6;

GST means all tax from time to time payable under the Goods and Services Tax Act 1985;

"Industry Standard" means the standard established by the Consulting Officer and Farm Wise Service of Livestock Improvement Corporation Limited;

"Initial Weighing or Condition Scoring" means the weighing referred to in Clause 5.5;

"kg DM" means kilograms of dry matter;

"The Land" means the land described in Clause 1.1;

"Livestock Improvement" means the Livestock Improvement Corporation Limited a wholly owned subsidiary of The New Zealand Dairy Board;

"Lien" means right of the Grazier to keep possession of the stock until money claimed by the Grazier has been met.

"like stock" and "like for like" means stock of the same age, range of age, genetic merit, type, breed, calving dates, body condition, and other characteristics;

"Penalty percentage rate" means the rate stated in Clause 1.6;

"Start Weight or Condition Score" means the weight established under Clause 5.5;

"The Stock" means the stock schedule and any substituted stock at all times;

"Termination date" means the date for termination in clause 1.2;

## 2.2 Interpretation

In this Agreement:

- (a) Where obligations bind more than one person those obligations shall bind those persons jointly and severally;
- (b) The benefits and burdens shall be binding upon the parties and their respective successors and personal representatives and any permitted assignees or transferees and references to the parties shall be construed accordingly;
- (c) Clause headings are inserted for reference only and shall not affect the interpretation of this deed;
- (d) Words and expressions defined are indicated by capital letters for convenience but the absence of a capital letter shall not alone imply that the word or expression is used with a different meaning from that given by its definition.

## 3.0 AGREEMENT TO GRAZE

- 3.1 The Grazier shall take in the Stock to be grazed on the Land upon the conditions of this agreement.
- 3.2 The Grazier shall not allow Stock Numbers depastured on the Land at any one time to exceed the maximum numbers stated in clause 1.14.

## 4.0 TERM OF AGREEMENT

This agreement shall commence on the commencement date and end on the Termination date in accordance with clause 1.2 unless previously terminated by either party for good cause.

## 5.0 WEIGHING OR CONDITION SCORING

### 5.1 Electronic yard Scales

The Parties accept the use of the electronic yard scales as an acceptable method of weighing for the purposes of this Agreement.

### 5.2 Inspection of Electronic Yard Scales

The Parties shall have the opportunity to inspect the electronic yard scales prior to commencing weighing. If either is not satisfied with the accuracy of the electronic yard scales he/she must raise the matter with the other prior to commencement of weighing.

### 5.3 Condition Scoring

Condition scores will be as specified by Industry Standard Condition Score photographs.

### 5.4 Weighing or Condition Score Sheet

A written copy of the weighing or condition scores signed by both parties shall be handed to each party after at the commencement and termination of the agreement. The weighing or condition score sheet shall be evidence of the parties' acceptance of the weights or condition scores as correct.

### 5.5 Initial Weighing or Condition Score

A representative sample of Stock will be weighed or condition scored on arrival at the Land to establish the start position.

### 5.6 Final Weighing or Condition Score

The same animals (as listed in the Stock Schedule) weighed at commencement will be weighed or condition scored within 7 days before the termination date or earlier cancellation of this Agreement or earlier departure of the Stock. If the Stock are not removed immediately following such weighing, or condition scoring the Grazier shall be credited with weight or condition score gain for each day after that weighing based the average gain per day up to that point.

### 5.7 The Stock will on every occasion be weighed within 2 hours of yarding and between 11 am. and 2 pm.

## 6.0 PAYMENT OF GRAZING FEES

### 6.1 Owner to pay grazing fees

The Owner shall pay grazing fees to the Grazier dependent on the payment method chosen at the rate specified in clause 1.7 in accordance with the instalments specified. Grazing fees for any stock which dies or is lost shall cease from the date of receipt of written notice of such death or loss by the Owner.

### 6.2 Final Payment (for weight gain payment method)

(a) The Owner shall pay a final payment for Weight or Condition Score Gain to the Grazier within 7 days of the final weighing (and before removing the Stock from the land).

(b) The final payment shall be subject to adjustment in accordance with the weight gain and penalty provisions of clause 1.10 subject to weight gain targets set in clause 1.9. The owner will only pay for the liveweight gain portion of increased weight not the pregnancy component.

### 6.3 Lien

The Grazier shall have a general lien upon the whole of the Stock for any sum for the time being owing for grazing fees and interest at the penalty percentage rate. Such lien may be enforced by the sale by auction or private contract of any Stock for the time being upon the farm.

### 6.4 Late Payment of Grazing Fees

The Owner shall pay to the Grazier interest at the penalty percentage rate on any instalment of grazing fees (including GST) not paid on due date, clause 1.6.

### 6.5 Goods & Services Tax

The Owner shall at the time it falls due for payment pay to the Grazier or as the Grazier directs all Goods & Service Tax payable on the rental and any other amounts payable under this agreement so that all rental and interest are paid to the Grazier as net amounts clear of Goods & Services Tax.

### 6.6 Non-grazing costs

If stockowner requests cows to be mustered to the yards for Udder checks or Drenching etc, the grazier may charge \$1/head up to \$60.

## 7.0 OWNER'S OBLIGATIONS

### 7.1 Owner's Obligations

- (a) The Owner shall not deliver to the Land any animals known to be dangerous or diseased or which are subject to any Government Stock Movement Restriction Order and all stock will comply with appropriate movement procedures.
- (b) The Owner will guarantee all stock have been dried off for at least seven days.
- (c) The owner will pay all cartage costs associated with transport of stock to and from the Grazier's property.
- (d) The Owner shall during the term of this agreement:
  - (i) Ensure that all control of internal and external parasites and other treatments required by good husbandry shall be given to the Stock at the appropriate time at the Owners expense.
  - (ii) Will provide Magnesium Oxide if specified for the purpose of meeting the requirements of clause 1.5.
  - (iii) Promptly when requested by the Grazier remove from the Land any Stock found to be suffering from any disease sickness or any other ill-thrift and arrange for the treatment of any injured stock and shall meet all veterinary expenses.

### 7.2 Owner's Warranty

The Owner warrants:

- (a) that all vaccinations and other treatments required by good husbandry have been given to the Stock at the appropriate times prior to delivery of the Stock to the Land and that none of the stock is suffering from any infectious disease or ill thrift.

### 7.3 GRAZIER'S OBLIGATIONS

- (a) The Grazier shall not knowingly turn out to pasture on the Land any animals known to be dangerous or diseased or which are subject to any Government Stock Movement Restriction Order or are not accompanied by appropriate movement documentation.
- (b) The Grazier shall manage the Stock with good husbandry in accordance with efficient farming practices.
- (c) If at any time the Grazier shall have knowledge or notice that any of the Stock is apparently suffering from illness or accident the Grazier shall immediately give notice of the same to the Owner, and in the case of urgency and the Owner not being available, call in a veterinary surgeon (if procurable) at the expense of the Owner.
- (d) If specified the grazier shall ensure feeding levels are met as in accordance with clause 1.12 and monitor these levels of intake in the appropriate method.
- (e) The grazier shall ensure that cows have access to water of sufficient quality and quantity to satisfy daily requirements of 30 litres/cow/day.
- (f) The grazier if required by the owner shall dust the pasture with Magnesium Oxide prior to the cows being given a fresh break of grass.
- (g) The Grazier will ensure the Land on which the Stock are depastured has adequate subdivision and that all fences and gates of the fields are in a reasonable state of repair at the commencement of the term and will be maintained during the term in that condition. Internal subdivision will be by electric fences.

(h) The Grazier will provide on the land a loading race with suitably metallised access and a concrete pad for yard scales. All facilities shall be in keeping with the total number of Stock carried.

(i) The Grazier will at all times provide for the grazing of the Stock not less than the area of land stated in clause 1.14 and shall not remove the Stock from the Land prior to termination of this agreement without the written consent of the Owner.

#### 7.4 Grazier's Warranty

(a) The Grazier warrants that the Land has no history of brucellosis or tuberculosis for the twelve months immediately preceding the date of this agreement and has not been subject to any Government stock movement restriction during the same period.

(b) The grazier warrants that the DDT/DDt levels are below accepted levels. Pasture species will contain less than 0.4 ppm of DDT and Root Crops (Turnips, Swedes etc) where the risk of soil ingestion is higher will contain less than 0.2 ppm of DDT.

### 8.0 OTHER RIGHTS & OBLIGATIONS

#### 8.1 Access to Stock

The Owner shall have the right to inspect the stock on the Grazier's land at any time upon not less than 24 hours notice to the Grazier.

#### 8.2 Identification of Stock

The Owner shall ensure that on delivery all stock are individually identified by Livestock Improvement Corporation brass or plastic tags, and that each animal bears a large readable tag or registered earmark identifying the Owner.

#### 8.3 Supplementary feed

Supplementary feed for feeding out to the Stock to the amount provided in clause 1.4 or as specified in clause 1.12. If extraordinary climatic conditions require supplementary feed in excess of that amount then the excess shall be provided by and at the cost of the Owner and the Grazier equally.

#### 8.4 Graziers right of rejection of Stock

The Grazier may upon delivery or at any subsequent time reject stock found not to be in accordance with the obligations and warranties of the Owner under this agreement.

#### 8.5 Graziers Right to Cancel

Without prejudice to the Graziers other rights and remedies under this agreement, the Grazier may terminate this agreement at any time for any of the following reasons:-

(a) If any instalment of grazing fee remains in arrears for more than seven days after written notice to the owner

(b) If the Owner is in breach of any other obligations on the part of the Owner contained in this agreement subject (only in the case of a breach of obligation capable of remedy by the Owner) to the Owner failing to make good such breach within a reasonable period of written advice by the Grazier, or

(c) If any of the Stock becomes diseased and the health of other stock depastured on the land is threatened.

## 8.6 Owners Right to Cancel

Without prejudice to the Owners other rights and remedies under this agreement the Owner may terminate this agreement at any time for any of the following reasons:-

- (a) If the Grazier is in breach of any obligations on the part of the Grazier contained in this agreement subject (only in the case of a breach of obligation capable of remedy by the Grazier) to the Grazier failing to make good such breach within reasonable period of written advice by the Owner, or
- (b) If the Stock loses condition or fails to gain weight at the appropriate rate having regard to the age sex and type of stock and climatic conditions, or
- (c) If any Stock dies or as is lost or becomes unsound due to any act or omission on the part of the Grazier.

## 9.0 RESPONSIBILITY FOR STOCK

9.1 All the Stock shall continue during the agistment at the risk of the Grazier. The Grazier shall take reasonable precautions for the care and safety of such Stock.

### 9.2 Stock Dead, Missing or Stolen

If during this agreement any of the stock dies or is lost, missing or stolen then the Grazier shall compensate the Owner as follows:

- (a) For stock which are lost, missing or stolen, the Grazier shall provide the Owner with like stock. The weekly payment is paid to the date of death.
- (b) For stock deaths over 2% or 1 animal (whichever is greater) of the total number in the mob at the commencement date, or due to gross negligence on the Graziers behalf the Grazier shall provide the owner with like stock. The weekly payment is paid to the date of death.
- (c) The grazier shall not be liable for any deaths due to facial eczema or occurring within 7 days of arrival. The Grazier shall if required by the Owner produce a veterinary certificate for any stock which die, at the expense of the Grazier.

9.3 Slips (Abortions) due to negligence of the grazier, in particular allowing cows contact with macrocarpa or mouldy silage/hay will be at the Graziers cost. The stock will be replaced with like for like stock. All other slips not due to the negligence of the grazier will be at the owners cost.

### 9.4 Straying animals and claims for trespass

All the fences and gates of the fields in which the Stock are to be pastured are believed to be in a reasonable state of repair. The Grazier shall indemnify the Owner against any claim which may be made against him/her in consequence of any trespass by the Stock.

## 10.0 DISPUTE RESOLUTION

### 10.1 Meeting

- (a) The parties shall first seek to resolve any dispute concerning this Lease by promptly meeting together with the intention of reaching an acceptable solution to the dispute.
- (b) If an acceptable solution to the dispute is not agreed to by the parties within 10 working days of the dispute having been first notified to a party by the other then either party may at any time invoke the mediation process pursuant to the following clause.

- (a) Either party may by written notice (called a mediation notice) to the other party require that the dispute between the parties be referred to mediation. A mediation notice shall set out the nature of the dispute but need not provide any further detail in relation to the dispute.
- (b) The service of a mediation notice shall not prevent the dispute from being resolved by negotiation and consultation between the parties.
- (c) The parties shall endeavour to agree upon and appoint a single person as mediator no later than seven days from the date upon which the mediation notice was served.
- (d) If the parties fail to agree upon a mediator within 5 working days of service of the mediation notice, then a mediator will be appointed by the Arbitrators and Mediators Institute of New Zealand Incorporated (the Institute).
- (e) When a mediator is appointed he or she shall in consultation with the parties settle the timetable and the procedures to be adopted during the mediation. The decision of the mediator on any timetabling and procedural matters shall be binding on the parties and in particular the mediator shall be entitled to call any meeting between the parties at such time and place as the mediator considers appropriate after having discussed the same with the parties.
- (f) The parties shall attend all meetings called by the mediator and at such meetings shall take part in the negotiations in good faith and use their best endeavours to reach an agreed solution. If any dispute is not resolved by written agreement within 20 working days of the date of service of the mediation notice the dispute shall then be resolved by the procedure set out in the following clause.

### 10.3 Arbitration

- (a) Any dispute to be resolved under this clause shall be referred to Arbitration by notice by either party. The Arbitration shall be settled by an arbitrator sole if one can be agreed upon by two arbitrators (one to be appointed by each party) and their umpire (appointed by the arbitrators prior to the Arbitration).
- (b) If the parties fail to agree upon an arbitrator sole and one or both parties fail to appoint an arbitrator within 15 working days of service of any arbitration notice referred to in clause 17.3(a), then:
  - (i) if neither party has appointed an arbitrator the Institute will appoint an arbitrator sole; or
  - (ii) if only one party has failed to appoint an arbitrator then the Institute will appoint an arbitrator which will be deemed to have been appointed by the party which failed to appoint.
- (c) The Arbitration shall be conducted pursuant to the Arbitration Act 1996 and any amendments or successor legislation. The award of any arbitrator shall be final and binding on the parties.
- (d) While any dispute remains unsolved the parties agree to continue the performance of this agreement to the extent that such performance is possible given the nature of the dispute.



#### 10.4 General Terms of Dispute Resolution

- (a) Any information or material or settlement proposals (dispute information) included or made during a meeting, mediation or arbitration are made on a without prejudice basis.
- (b) Dispute information and the existence of the dispute shall be kept strictly confidential subject to disclosure on a confidential basis to advisors and as required by law.
- (c) Both parties shall participate in the meeting, mediation and arbitration process on a best endeavours and good faith basis.

11.0 SPECIAL CLAUSES (if any) (Any special clauses should be attached, numbered consecutively and initialled by the parties.)

## Appendix 1

The following tables provide some guidelines for feeding levels for different situations in kg DM, assuming winter pasture of 10 MJ ME /kg DM

### Feed Requirements for Maintenance:

Liveweight	350 kg	400 kg	450 kg	500 kg	550 kg
Maintenance (kg DM/cow/day)	4.6	5.1	5.6	6.1	6.5

### Pregnancy:

Month of Pregnancy	Month 7	Month 8	Month 9
(kg DM/cow/day)	0.9	1.5	2.9

### Liveweight Gain:

Feed requirements per day above maintenance and pregnancy (6.75 kg DM per kg Liveweight Gain)

To Gain 1 Condition Score or 27 kg Liveweight in a time period of:	In 4 weeks	In 6 weeks	In 8 Weeks
(kg DM/cow/day)	6.5	4.3	3.3

The above tables feed requirements are based on Winter Pasture of 10 MJ ME /kg DM. For lower or higher quality feeds multiply the required feed intakes in kg DM by the values given the adjustment table below:

	MJ ME / kg DM	Adjustment Factor
Average Silage	9	x 1.1
Average hay	8	x 1.25
Barley Straw	6.5	x 1.5
Meal	12.5	x 0.8
Choumoellier	11.5	x 0.9