Delmarva Dairy Day
February 16, 2017

Delmarva Dairy Day returns to Hartly Fire Hall in Hartly, Delaware this year on Thursday February 16, 2017 from 9:30 am- 2:30 pm. This educational program features experts from across the region speaking on current issues facing the industry.

In the morning session, Julio Correal from Arm & Hammer Animal Nutrition will give an update on Milk Quality and Udder Health – Understanding Udder Physiology. This unique learning opportunity will also include the dissection of an udder from a previously lactating cow. A hot lunch will be served by the Ladies Auxiliarly along with UD Creamery ice cream. The afternoon will begin with Ev Thomas from Oak Point Agronomics and he will talk about Low Lignin Alfalfa and Alfalfa Management. Ev Thomas will also discuss Fertility Management for Corn Silage Crops. Rounding out the program will be Nicole McNeil of Pennsylvania Certified Organic, speaking about Transitioning to Organic Dairying.

Participants will have the opportunity to visit with dairy industry vendors throughout the day. The University of Delaware will be offering ice cream manufactured at the UDairy Creamery on campus from milk produced by the UD dairy herd located in Newark.

Dairy Day program attendees will have the opportunity to earn 1 continuing education credit (CEU) towards their nutrient management certification. In addition, producers are invited to bring their completed 2016 Nutrient Management Annual Report form and turn it in to earn 0.5 NM CEU credits and a manure sample in a sealed and labeled sandwich bag to earn an additional 0.5 NM CEU. If a producer has already taken advantage of this opportunity during Delaware Ag Week, they cannot earn credits for turning in an annual report and manure sample a second time.

Program registration is free and open to any producer or industry professional on the eastern shore, however attendees are asked to RSVP to Dan Severson, at (302) 831-2506 or severson@udel.edu by February 6th so that they can be
Dairy Heifer Contracting Fundamentals
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Introduction

The custom heifer industry in the United States continues to grow and develop. An understanding of the importance of a written contract and its components is essential for custom heifer growers and for the dairy producers planning to employ these services.

In the past, agricultural producers tended to shy away from written contracts; for example, in the 2002 Farm Credit Northeast Dairy Farm Summary, only 17 percent of the herds that contracted heifers utilized a contract agreement. In today’s world, contracts are just as necessary in agriculture as they are in any other business. The advantages of using a contract far outweigh the disadvantages of having one. When the future of a dairy herd is riding on whether heifers are being raised properly, a detailed, written agreement should be considered an essential component of the relationship between the heifer grower and the dairy producer.

The purpose of this paper is to outline the advantages of using contracts and to describe the components that custom heifer growers may want to include in their own contracts. Please note that we are not dispensing legal advice. Everything presented here is for educational purposes only.

Advantages of Using a Written Contract

The primary advantage of a written contract is its clear description or outline of each party’s responsibilities. This document specifies what the dairy producer expects of the custom grower - and vice versa - in animal outcomes and economic terms. It’s a document that can be referred to whenever questions arise. Periodic review of the agreement allows each party to refresh his memory as to what his responsibilities are and offers the opportunity to make needed changes.

Signed contracts also provide a form of protection should a disagreement ever result in a lawsuit. If you have the unfortunate experience of having a lawsuit filed against you in relation to your work, a contract can help protect your interests and potentially keep your business from experiencing a significant financial loss. Along the same lines, the terms of a contract specify how and when the agreement can be terminated, thus providing stability for your business. A well-written, comprehensive contract that spells out each party’s responsibilities makes it clear who was negligent or responsible for a certain outcome.

Types of Contracts

There are at least five types of contract agreements that are commonly used. Each one differs in how charges are calculated and ownership of animals. The one that you decide to use will depend on both your preferences and those of the producer you grow for. It may be helpful to discuss contract choice with each client.
1. **Full Contract** - Under a full contract, the producer pays the heifer grower a set fee to raise the animals for a specific length of time. The contract period may be set by the calendar, as in 12 months, or it may depend on animal development, growth stages, breeding age, or perhaps calving. This type of contract rewards the grower for returning heifers that meet the contract’s specifications in a timely fashion and is highly recommended for this reason.

2. **Daily Charge (per head per day)** – This type of contract charges the dairy producer a set amount per day for each animal. The longer the animal remains in the grower’s care, the more the producer pays in total. This type of contract rewards the grower for low rates of gain and for keeping heifers longer than needed. This option should include specific growth parameters listed in the contract to keep heifers on track with an appropriate growth regimen.

3. **Per Pound of Gain** – Gain-based contracts charge a set fee for each pound of weight gain that the animal has while in the grower’s care. This requires the grower to handle each animal several times to measure weight. This type of contract is not recommended for dairy heifers unless it also specifies a corresponding measure of structural growth, such as withers height or hip height. Merely having a set level of body weight does not constitute good growth for the dairy heifer and encourages the grower to raise fat heifers.

4. **Feed plus Yardage** – Under this payment option the producer pays for the cost of feed plus an additional set charge to cover all other expenses, such as labor, overhead, and management. Thus, feed becomes a variable expense, changing as the animal eats more or as more expensive feeds are provided. Because feed is the largest component of raising a heifer, and often quite variable from year to year, this type of contract may be logical in some instances. However, this option may encourage the use of cheap feeds at the expense of heifer performance.

5. **Sell/Buy Back** – With a sell/buy back agreement, the producer sells young heifers to the grower with the option to repurchase animals prior to calving. Ownership of the heifers is transferred to the grower. This arrangement completely relieves the dairy producer of any liability related to the animal; however, the dairy producer also completely gives up control of any decisions related to the care of the heifers.

**Contract Contents**

Some of the items that should be addressed in a written contract for custom heifer-growing services can be grouped into five categories and are outlined as follows:

**Time Period**

- **Time Frame** – You and each producer for whom you will be raising heifers will need to agree on the age of animals/maturity at which they come and go from your operation. This will be determined mostly by your skills, the type of facilities you have, the type of feeds you are able to provide, and the specific needs of the producer.

**Billing and Payment**

- **Payment Calculation** – Once a contract type has been chosen, make sure to clearly spell out how charges will be calculated. If you use any type of formula, it may be a good idea to include that in the contract. Everyone signing the contract needs to understand how payment amounts are calculated.

- **Payment Method and Timing** – Determine how and when payments will be made. Do you want to be paid by cash or check, or is some sort of barter acceptable? When do you want to be paid? There are many
options, including: weekly, biweekly, monthly, and half up front and half when heifers return to the producer. Before you decide, analyze your expected costs and cash flow. You should make sure that you are receiving payments often enough to cash flow your business and meet family living expenses.

- **Nonpayment** – You should also include in the contract how nonpayments will be handled. Perhaps there will be a period of time after the payment due date where the producer can still pay without incurring a penalty. If nonpayment is a recurring problem or if payments are routinely months late, you may want to incorporate a penalty charge into your fee structure. For producers who still do not pay for your services you may need to specify the option to take over ownership of the number of animals that will satisfy your bill.

- **Last Payment** – Determine a procedure for obtaining last payments after the contract is terminated. Perhaps you will want to refrain from returning a number of animals valued at the payment amount until payment is made. Decide the date payment is due when the decision is made to terminate the contract.

**Responsibilities**

- **Entrance Requirements** – Establish standards for animals entering your facility and criteria for rejecting animals if necessary. Some factors to consider include: health status, vaccination history, and previous performance. Decide if and how you will alter your charges and/or performance standards for animals that fail to meet entrance requirements.

- **Performance/Quality Standards** – Determine what the producer’s standards are for animal performance. Where do heifers need to be in respect to age, weight, structural growth, body condition, and reproductive status when they return to the home farm? Spell out how agreed-upon performance standards will be measured and how often.

- **Monitoring and Reporting** – Once performance and quality standards have been set, a procedure for monitoring and reporting heifer performance should be determined. For instance, will you need to weigh and measure height monthly? How and when will you report progress to the producer? Is a simple phone call or e-mail assuring them of satisfactory progress sufficient? Perhaps the producer would rather receive a detailed report on each animal indicating how well they meet performance standards, as well as all health procedures, such as vaccinations, that have been performed. Reporting should also include death losses and major health events where a veterinarian has been called in or an animal suffers a problem that has long-term implications. Reports need to be made periodically - at least quarterly, if not monthly. One possibility is to send reports with billing statements and use the time interval dictated by billing.

- **Health Practices** – Do you have a health protocol that will be followed for all animals in your care, or will you customize health care to each producer’s preferences? Whose veterinarian will be employed: yours or the producer’s? You may also want to include in the contract who performs what health practices and who pays the vet bills.

- **Breeding** – Who is responsible for seeing that the heifer is bred? What bulls will be used and what mating programs employed? Who pays for breeding and semen? Also, how many times will heifers be inseminated before it is determined that they cannot be bred?

- **Death Losses** – Acceptable levels of loss and who incurs the loss when deaths occur need to be specified. This is determined, in part, by the type of contract that is in effect.

- **Transportation** – Identify how, how often, and by whom animals will be transported to and from the
producer’s farm.

- **Animal Identification** – If you are raising heifers for more than one producer, you will need to think about how animals belonging to one producer will be distinguished from those belonging to the others. Decide how animals will be identified and who will be responsible for getting it done.

- **Animal Nonperformance** – Who will determine whether heifers are meeting performance standards? If an animal is not making the grade, who will decide whether the heifer should be removed from the herd or if the contract should be terminated? If heifers are sold, how will the proceeds be distributed.

- **Insurance** – Whose insurance covers the loss and liability of the animals while they are being raised by the contract grower? Again, this is determined, in part, by the type of contract that is in effect.

- **Reassignment of Duties** – Consider what would happen if you suffer a long-term illness, become injured or disabled, or die. Is there someone who could step into your place and take over management of the business and/or care of the animals? If you have a plan to cover these incidences, discuss them with each producer to make sure they agree with your plans, and then write them into the contract.

### Amendments, Renegotiations, and Renewal

- **Arbitration** – Arbitration procedures should be written into the contract to solve disagreements that cannot be settled quickly and easily. This may include how mediators will be chosen and how long arbitration will last.

- **Renegotiation** – Guidelines for renegotiation of contract components should be spelled out, too. If renegotiation of responsibilities is to occur, you may want to make this part of the renewal process. Fees and charges may also need to be renegotiated from time to time. If you feel that markets are volatile, you may want to renegotiate fees more often.

- **Contract Renewal** – Included in the contract should be start and end dates (contract length), as well as when negotiations for renewal of the contract will take place. The renewal process should begin far enough in advance of the current contract’s ending date to allow for other arrangements in case it is determined that renewal should not be pursued.

### Termination

**Contract Termination** – Contract termination can sometimes be a painful process. However, if the heifer-raising partnership is not working successfully for either party, it is best to have a mechanism in place to allow for the contract to end before business success or relationships are endangered. In cases of contract termination, refer to your procedure for last payments.

### Summary

Contracting is a necessary part of doing business. As a heifer grower, the first step to successfully employing the use of contracts is learning the pieces that should be written into one. This paper has listed the components for a comprehensive contract and should assist you in developing your own contract. Below is a sample contract.
Direct Contract for Raising Replacements

________________ COUNTY _________________ DAIRYMAN

___________________________ GROWER

CLAUSE I: PARTIES INVOLVED: This contract is entered into this ______ day of ________, 20____; between ______________, the grower of ________________, County of ________________, State of ___________________; and ___________________, the dairyman of ___________________, County of ________________, State of ___________________.

CLAUSE II: TERM OF CONTRACT: The term of this contract shall be from the ______ day of ______, 20____, to the _______ day of ______, 20____, and shall be automatically renewed from year to year unless otherwise terminated in accordance with the provisions herein or amended in writing as mutually agree upon.

The dairyman agrees to furnish the grower with the heifer calves listed on the description sheet attached hereto and made a part hereof.

The dairyman agrees to assume all legal responsibility as owner of the animals listed on the attached Description Sheet and will not hold the grower liable for injury or death losses to the animals, except those due to negligence on the part of the grower.

CLAUSE III: TERMINATION OF CONTRACT: This contract may be terminated at any time by mutual agreement in writing or by at least three months written notice from either party prior to the annual renewal date. The animals on hand will be finished out or disposed of by the written terms in the contract.

CLAUSE IV: ARBITRATION: Any dispute arising under the terms of this contract may be referred by the parties hereto to an arbitrator, or if one person cannot be found who is acceptable to both parties, then each shall choose an arbitrator and the two chosen shall select a third. The majority decision of the arbitrator(s) shall be presented to both parties in writing. The arbitrator(s) shall have the power to make an award or determination on any issue which arises out of the contract and it shall be binding on both parties. The expense of the arbitrator(s) shall be divided equally between the parties. Pending final decision of a dispute hereunder, the parties hereto shall proceed diligently with the performance of the contract.

CLAUSE V: THE GROWER: The grower agrees to pick up the heifer calves at _______ days of age. These animals will be listed on the description sheet.

CLAUSE VI: ADDITIONAL ANIMALS: Additional animals may be added to this contract and all conditions of the contract shall apply to the additions. Both parties shall initial entries and exits on the description sheet of all original and additional animals.

CLAUSE VII: OTHER CONSIDERATIONS: The DAIRYMAN further agrees to:

1. Pay for all registration costs and retain registration certificates when registered animals are involved.
2. Bear the transportation expenses of moving the heifers from the grower’s farm to the dairyman’s farm.

The GROWER further agrees to:

1. Bear transportation expenses of moving the heifers from the dairyman’s farm to the grower’s farm.
3. Have heifers vaccinated if requested by the dairyman.
4. Dehorn all animals at earliest convenience.
5. In case of death (of an animal listed on the description sheet) for any reason not covered by insurance, the grower will credit the dairyman with 100 percent of total fee paid by the dairyman on said animal. This clause is null and void if the animal is not picked up by specified time.

The dairyman shall have the privilege of inspecting the growing animal at regular intervals convenient to both parties.

CLAUSE VIII: PICKUP OF HEIFERS: The dairyman shall pick up said animals at approximately ____ months of age. The date of pickup will be established for both parties by using the birth date of the calf and monthly payment will be handled in this manner: The dairyman will pay the grower at a rate of _____ per day, payable at _____ per month. Payment is to be made on _____ of each month.

Witness the hand of the undersigned parties of this

__________ day of ____________, _______

___________________________________ GROWER
___________________________________ DAIRYMAN

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Final Veterinary Directive Rules
- the bottom line

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With the new Veterinary Feed Directive (VFD) in place, in 2017 antibiotics approved for use by humans and animals cannot be used for growth promotion.

Affected classes of antibiotics include: penicillins, cephalosporins, quinolones, fluoroquinolones, tetracyclines, macrolides, sulfas, and glycopeptides

Unaffected classes of antibiotics: ionophores, polypeptides, carbadox, bambermycin, pleuromutilin

Antibiotics in the “affected class” above can still be used for use therapeutic uses under the oversight of a licensed veterinarian to:

a. control the spread of an illness
b. prevent illnesses in healthy animals if exposure is likely
c. treat animals with diagnosed illnesses

Producers must retain VFD records for 2 years.

The bottom line: Work with your licensed veterinarian to determine your needs.

MPP Enrollment Extended

The U.S. Department of Agriculture has extended the deadline for dairy producers to enroll in the Margin Protection Program (MPP) for Dairy to December 16, from the previous deadline of September 30.

This voluntary dairy safety net program established by the 2014 Farm Bill provides financial assistance to participating dairy producers. This happens when the margin – the difference between the price of milk and feed costs – fall below the coverage level selected by the producers.

A USDA web tool, available at www.fsa.usda.gov/mpptool, allows dairy producers to calculate levels of coverage available from MPP based on price projections.