

CERTIFICATION MARK LICENSE AGREEMENT

This Certification Mark License Agreement ("Agreement") is made between the City of Brentwood (the "City"), a California Municipal Corporation, conducting business at 150 City Park Way, Brentwood, California 94513 and <<Business Name>> ("Licensee"), located at <<Business Address>>, <<City>>, California <<Zip>>. This Agreement is effective on the day it is executed by both of the parties.

Recitals

1. The City has obtained Certification Marks from the United States Patent and Trademark Office (U.S. PTO) for the words "Brentwood Grown" (U.S. PTO Registration No. 3720127) and for the logo associated therewith (U.S. PTO Registration No. 3944746), an example of which is attached hereto as Exhibit A (collectively, "Certification Marks"). The Certification Marks, as used by persons authorized by the City, certify that the goods bearing these marks emanate from Brentwood, California. Their purpose is to increase awareness of and promote commerce in agricultural products emanating from the Brentwood region.

2. The City intends that the Certification Marks be used to enable retailers and consumers to differentiate agricultural products meeting the criteria set forth herein from agricultural products that do not meet the criteria.

3. Licensee produces and/or sells agricultural products meeting the criteria set forth herein and wishes to label such agricultural products with the Certification Marks.

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is agreed as follows:

A. Grant of License

1. The City grants Licensee a nonexclusive license to use the Certification Marks on Licensee's labels and packages in accordance with, and subject to, the provisions of this Agreement.

B. Requirements of Use

1. The Certification Marks shall only be applied to agricultural products grown or produced from items grown in the City of Brentwood Planning Area, as that term is defined in the 2001 General Plan, as it has been or may be amended.

2. Use of the Certification Marks shall be limited to food, raw and processed agricultural products, and wines. For purposes of this Agreement, agricultural products shall include commodities generally regarded and regulated as agricultural products including, but not limited to, fruits, nuts, vegetables, eggs, meat, fowl and dairy products.

3. The Licensee's agricultural products that are labeled with the Certification Marks or advertised thereunder shall be wholesome and legal and meet all standards of sanitation, safety and quality required by local, state and federal laws.

4. The Licensee's advertising, promotional and merchandising materials that employ the Certification Marks shall not be, or make any claims that are, false, misleading, or deceptive, including, but not limited to, claims that discredit, disparage, or otherwise unfairly attack the quality, value, sale, or use of any competing product. The City shall retain sole

discretion to make determinations under this provision. The Licensee shall at all times comply with advertising standards set by local, state and federal laws.

5. Licensee shall provide reasonable assurances that it has a system in place to meet these requirements of use. Licensee shall maintain records sufficient to audit this system for the life of this Agreement and shall make those records available to the City upon request.

C. Image Requirement

1. The Certification Marks shall only be reproduced in the colors and form displayed and/or described in Exhibit A of this Agreement.

2. The Certification Marks may be adjusted in size provided the proportions are not changed and the Certification Marks are not reduced to the point that it is not reasonably legible.

3. The Certification Marks shall not be altered in any way other than that specified herein.

4. The Licensee may not insert its name or trademark within or overlap the boundaries of the Certification Marks or present the Certification Marks in a manner that gives the impression that they are part of another mark.

5. The Licensee may not use either Certification Mark as its own mark, as the exclusive representation of Licensee's business or otherwise attempt to use one or both of the Certification Marks in an exclusive manner.

D. Ownership and Protection of the Certification Marks

1. Licensee recognizes the great value of the goodwill associated with the Certification Marks and acknowledges that the Certification Marks and goodwill are the property of the City. Licensee agrees to do nothing to diminish the value of the Certification Marks and to reasonably assist the City in its efforts to protect the Certification Marks.

2. While the City intends to promote the Certification Marks and the consumer recognition thereof, nothing in this Agreement shall be construed to impose on the City any particular obligation or requirement to promote the Certification Marks.

E. Records

1. Licensee shall, at all times during the term of this Agreement, create and maintain records evidencing Licensee's compliance with the terms and conditions of this Agreement, including, but not limited to:

(a) Documents identifying that the agricultural products labeled with the Certification Marks are a product defined under Section B.1 and 2 of this Agreement.

(b) A description, including photographs, of how the Certification Marks are used on advertising and promotional materials, including types and quantities, and

(c) Examples of Licensee's actual use of the Certification Marks in commerce, with photographs of each example.

2. Licensee shall submit for inspection a statement of use containing the information and photographs described in E.1(b) and (c) at the end of each calendar year.

3. At any other time Licensee shall, upon the City's request and with reasonable notice, submit for inspection the records required to be maintained under this section.

F. Term and Termination

1. This Agreement shall commence on the effective date and shall continue indefinitely unless terminated under the provisions herein.

2. Licensee may terminate this Agreement by serving notice of such termination to the City. Such termination shall be effective upon receipt by the City.

3. The City may terminate this Agreement for any reason effective ninety (90) days from the date the City serves written notice of termination on Licensee. The City may also terminate this Agreement immediately upon notice of termination, should the City determine that Licensee has failed to comply with any of the obligations or conditions set forth in this Agreement.

4. Upon termination, Licensee shall cease using the Certification Marks within thirty (30) days. If, however, the City terminates this Agreement based on concerns relating to standards of sanitation, consumer safety or the violation of any local, state or federal law, the City may require the Licensee to immediately cease using the Certification Marks and require the Licensee to recall products bearing the Certification Marks.

5. Licensee acknowledges that improper use of the Certification Marks would result in irreparable harm, and the City may seek and obtain a court order restraining Licensee further use of the Certification Marks. The remedies provided herein are cumulative and in addition to any other rights or remedies the City may have at law or equity.

G. Indemnification and Insurance

1. Licensee shall indemnify and hold harmless the City and each of its respective employees, officers, directors, and agents from any claims, actions, suits, injuries, damages, costs, expenses (including, but not limited to, attorneys' fees), and/or other liabilities arising out of or connected with: (i) Licensee's use of the Certification Marks; (ii) Licensee's breach of this Agreement; and/or (iii) the promotion, sale, use, or consumption of Licensee's product.

2. During the term of this Agreement, Licensee will obtain and maintain, at its cost and expense, one or more of the following policies, as determined by the Risk Manager or his/her designee: commercial general liability, product liability and agricultural liability, and a policy of workers' compensation insurance, all from an insurance company authorized to transact the business of insurance in the State of California which has a current rating in the Best's Key Rating guide of at least A-VII. Insurance shall be in a combined amount of not less than two million dollars (\$2,000,000), except for worker's compensation, unless otherwise authorized and approved by the Risk Manager or his/her designee. Worker's compensation limits, if applicable, will be set at those limits required by the California Labor Code. Licensee will obtain occurrence coverage. The insurance will be in force during the life of this Agreement and will not be canceled without thirty (30) days prior written notice to the City by certified mail. City, its officers, agents, volunteers and employees will be named as additional insureds on commercial general and product liability insurance. Licensee's insurance coverage will be primary insurance with respect to City, its officers, agents, volunteers and employees. Any insurance or self-insurance maintained by the City will be in excess of Licensee's insurance and not contributory with it. Licensee will furnish certificates of insurance and endorsements to City prior to use of the Certification Marks.

H. Miscellaneous Conditions

1. Attorney's Fees. In any litigation between the Parties related to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and expenses and actual costs of suit.

2. Assignment and Sublicense Prohibited. The permission to use the Certification Marks herein granted is personal to Licensee and may not be assigned or transferred in any way without prior written consent of the City. Licensee may not sublicense use of the Certification Marks.

3. Entire Agreement. This Agreement, which includes and incorporates the recitals and exhibits, constitutes the entire agreement between the Parties and supersedes any prior understanding or agreements between the Parties relating to this subject matter.

4. Waiver and Modification. None of the provisions of this Agreement may be waived or modified except expressly in a writing signed by both Parties.

5. Applicable Law and Forum. This Agreement shall be governed by the laws of the State of California, without reference to its conflicts of law provisions, as though entered into between California residents and to be performed entirely within the State of California. All parties consent to jurisdiction and venue in the state and federal courts sitting in the State of California and in particular, within Contra Costa County, California.

6. Severability. In the event any term, condition or provision of this Agreement is determined to be void, invalid, illegal or unenforceable, it shall, only to that extent, be deemed stricken. However, all other provisions shall remain and constitute the Agreement among the parties.

7. Compliance With Local, State and Federal Law. Licensee shall comply with all applicable local, state and federal laws, including equal opportunity laws, with respect to the production, marketing and sale of agricultural products marked with the Certification Marks.

8. News Releases/Interviews. All news releases, media interviews, testimony at hearings and public comment concerning this Agreement shall be prohibited unless expressly authorized by the City.

9. Notices. All written notices to be given hereunder, whether pursuant to this Agreement or a provision of law, shall be either delivered in person or by the United States mail, postage prepaid. Unless stated otherwise herein, notices shall be effective and/or deemed served upon personal delivery or three (3) days after mailing. Notices shall be addressed as follows:

To City: City of Brentwood
 Attn: Economic Development Manager
 150 City Park Way
 Brentwood, CA 94513

To Licensee: <<Business Owner Name(s)>>
 <<Business Name>>
 <<Business Address>>

<<City>>, CA <<Zip>>
(XXX) XXX-XXXX

10. Execution. This Agreement may be executed in any number of counterparts. If this Agreement or any counterpart is signed and then faxed, the faxed copy bearing the signature shall be as good as the original, wet-ink signed copy for all intents and purposes.

11. Authority To Execute. Each party represents and warrants that: (a) it has full power and authority to make, execute and perform this Agreement; (b) the provisions of this Agreement have been duly authorized and approved by all necessary action; and (c) the undersigned officers have been duly authorized to execute and deliver this Agreement on behalf of the represented party.

12. Survival of Provision. Sections D, F, G, and H of this Agreement shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date described below.

<<Business Name>>

_____, Licensee
<<Business Owner Name>>

_____, Licensee
<<Business Owner Name>>

Date: _____

City of Brentwood

By: _____
_____, Economic Development Manager

Date: _____

Exhibit A to the Brentwood Grown License Agreement Certification Mark Criteria

For marketing purposes, such as labels, brochures, banners, websites and advertising, the certification mark shall be used in the following form:

Full color (original design)	 The certification mark is a circular emblem. At the top, the words "BRENTWOOD" and "GROWN" are written in a semi-circle. Below the text is a landscape illustration featuring a range of mountains, a field of crops, and a row of trees in the foreground.
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For production packaging such as crates and boxes, the certification mark shall be used in the following forms:

Full color (original design)	 The certification mark is a circular emblem. At the top, the words "BRENTWOOD" and "GROWN" are written in a semi-circle. Below the text is a landscape illustration featuring a range of mountains, a field of crops, and a row of trees in the foreground.
Black and white with no fill	 The certification mark is a circular emblem. At the top, the words "BRENTWOOD" and "GROWN" are written in a semi-circle. Below the text is a landscape illustration featuring a range of mountains, a field of crops, and a row of trees in the foreground, all rendered in black outlines on a white background.
Green with no fill	 The certification mark is a circular emblem. At the top, the words "BRENTWOOD" and "GROWN" are written in a semi-circle. Below the text is a landscape illustration featuring a range of mountains, a field of crops, and a row of trees in the foreground, all rendered in green outlines on a white background.