

**BUY CALIFORNIA MARKETING AGREEMENT ADVERTISING AND
PROMOTIONAL CAMPAIGN
COMPLIANCE AGREEMENT**

The Buy California Marketing Agreement (“BCMA”), and

_____ (“Participant”) hereby agree as follows:

Upon full execution of this Compliance Agreement, BCMA grants Participant nonexclusive, royalty-free permission to use the Servicemark (United States Patent & Trademark Office Registration Number 2,809,998), and the phrases “CA GROWN. Be Californian. Buy California Grown.” on Participant’s labels and packages in accordance with, and subject to, the provisions of this Compliance Agreement.

I. RECITALS

A. The California Department of Food and Agriculture and the Buy California Marketing Agreement developed the “California Grown” Advertising and Promotional Campaign (“Campaign”) to increase awareness and consumption of California agricultural products (generic and branded) among California consumers.

B. BCMA involves multiple California agricultural products, is generic in nature, and revolves around the development of a California identity message, and may include, but is not limited to, advertising, merchandising, sales and consumer promotion, consumer education, media outreach, marketing and scientific research, health promotion, and public relations.

C. The intent is to use the Servicemark to differentiate for retailers and consumers product meeting the standard of identity from product that does not.

D. The mark and phrase “CA GROWN. Be Californian. Buy California Grown.” (Exhibit CA-1) is owned by BCMA, and is referred to as in this agreement as the “Servicemark.”

F. Participant has applied to BCMA for permission to use the Servicemark in connection with the purposes expressed in A., B., and C., above.

II. PROVISIONS RELATING TO THE SERVICEMARK

A. Use

1. The Servicemark shall only be used in connection with the advertising or promotion of product that meets the standard contained in Food and Agricultural Code section 43100 (produced in California or harvested in its surface or coastal waters). For

this purpose, product whose components are 85% grown or harvested in California or its surface or coastal waters will be presumed to meet the statutory standard.

2. The Servicemark shall not be used on product or to identify product as meeting the standard of identity contained in #1 above. BCMA's certification mark is to be used for that purpose.

3. The Servicemark shall be used without reference to a private brand or label, although this limitation shall not be construed to prevent identification of location by a trade name.

4. Participant shall provide reasonable assurances it has a system in place to meet the above requirements. Participant shall maintain records sufficient to audit this system for the life of the agreement and shall make those records available upon request to BCMA.

B. Image Requirements

1. The Servicemark shall be reproduced only in authorized colors as displayed in the original diskette version provided upon execution of this agreement.

2. The Servicemark may be adjusted in size provided the proportions are not changed; however, the Servicemark may not be reduced smaller than 7/8" wide by 1/2" high.

3. The Servicemark shall not be altered in any way other than specified in B.2. above.

4. Participant's name and/or trademark may not be inserted within or overlap the boundaries of the Servicemark.

5. Participant shall not use the Servicemark as its own mark, or as the exclusive representation of Participant's business entity.

C. Message Created by the Servicemark

1. If BCMA, in its discretion, finds that a particular use of the Servicemark is inconsistent with the Campaign, it may require the Participant to discontinue that particular use of the Servicemark.

2. Participant's advertising, promotional or merchandising materials which use the Servicemark shall not be, or make any claims which are, false, misleading, or deceptive, including, but not limited to, claims which discredit, disparage, or otherwise unfairly attack the quality, value, sale, or use of any competing product. Participant shall at all times comply with advertising standards of all applicable local, state, and federal laws.

3. Upon BCMA's written notice, Participant shall, from the time of the notice on, obtain BCMA's pre-approval for Participant's use of the Servicemark. Pre-approval by BCMA pursuant to this paragraph shall in no way affect Participant's obligations to use the Servicemark consistent with the other provisions of this agreement.

D. Ownership and Protection of the Servicemark

1. Participant recognizes the great value of the goodwill associated with the Servicemark and acknowledges that the Servicemark and goodwill are the property of BCMA. Participant agrees to do nothing to diminish the value of the Servicemark and to reasonably assist BCMA in its efforts to protect the Servicemark.

2. While BCMA intends to promote the Servicemark and the consumer recognition thereof, nothing in this agreement shall be construed to impose on BCMA any particular obligation or requirement to promote the Servicemark.

E. Records

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

- a. Documents identifying that the product advertised or promoted in connection with the Servicemark was a California agricultural product as defined in section IV.A.1. above;
- b. A description of how the Servicemark was used on advertising and promotional materials, including types and quantities; and
- c. Examples of Participant's actual usages of the Servicemark in the stream of commerce.

2. Six months following execution of this agreement, Participant shall submit a certification attesting to its compliance with this agreement. Unless BCMA specifies otherwise, the certification shall contain the information specified in paragraph b. and c. above. BCMA may require additional status certifications upon written notice to Participant.

III. CONDITIONS OF THIS AGREEMENT

A. Indemnification

Participant shall indemnify and hold harmless BCMA, the State of California, and each of their 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) Participant's use of the Servicemark; (ii) Participant's breach of this agreement; and/or (iii) the promotion, sale, use, or consumption of Participant's product.

B. Termination

1. This agreement shall commence as of the date signed by BCMA and shall continue in effect until suspended or terminated by BCMA. BCMA may terminate this agreement effective ninety (90) days from the date written notice is served on Participant or as otherwise specifically provided in this agreement.

2. Should BCMA determine that Participant has failed to comply with any of the obligations or conditions set forth in this agreement, the agreement and all rights to use the Servicemark may be terminated by BCMA effective immediately upon service of notice by regular and certified mail. Participant acknowledges that improper use of the Servicemark would result in irreparable harm, and BCMA may seek and obtain a court order restraining Participant’s further use of the Servicemark. The remedies provided herein are cumulative and in addition to any other rights or remedies BCMA may have at law or equity.

C. 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.

D. Communication and Notices

Any notices, reports, or communications sent pursuant to this agreement shall be in writing and served personally or by certified mail, postage and charges prepaid, addressed as follows:

BUY CALIFORNIA MARKETING
AGREEMENT
1521 I Street
Sacramento, CA 95814
(916) 441-5302
FAX: (916) 446-1063

PARTICIPANT:

E. Assignment Prohibited

The permission to use the Servicemark herein granted is personal to Participant and may not be assigned or transferred in any way without prior written consent of BCMA.

F. Entire Agreement

This agreement constitutes the entire agreement between the Parties and supersedes any prior understanding or agreements between the Parties relating to this subject matter.

G. Waiver of Provisions

None of the provisions of this agreement may be waived or modified except expressly in writing and signed by both Parties.

H. Applicable Law

This agreement shall be interpreted and construed in accordance with the laws of the State of California.

I. Jurisdiction

Participant agrees to submit to the jurisdiction of the courts of the State of California and/or the United States of America for purposes of any dispute arising out of this agreement.

IV. SIGNATURES

Having read and understood the preceding pages, Participant hereby agrees to abide by the terms and conditions of this agreement.

Date: _____

Participant: _____
Please print or type company name

By: _____
Signature and printed name

Title: _____
Please print or type

Accepted:

Date: _____

Buy California Marketing Agreement

By: _____
Signature and printed name

Title: _____
Please print or type

**EXHIBIT CA-1
SERVICEMARK**



Be Californian Buy California GrownSM

COLORS

Primary Blue: Pantone 301C

Lighter Blue: Pantone 3005C

Yellow: Pantone 136C

FONT

License plate: Futura Condensed

Tagline: Futura Normal

