

Fruits & Veggies—More Matters Private Sector Trademark License Agreement



Fruits & Veggies—More Matters® (Brand) is a registered trademark of Produce for Better Health Foundation (LICENSOR). LICENSOR makes the Brand logo available to Private Sector LICENSEE for the purpose of promoting the increased consumption of fruits and vegetables by Americans. Under this Trademark License Agreement (Agreement),

(your company name)

hereinafter referred to as LICENSEE, is authorized to use the Brand logo on approved products and materials, in compliance with the terms and conditions set forth herein.

Effective on the subscribed date, in consideration of receipt of approved artwork and/or electronic files containing the Brand logo and related materials LICENSEE agrees to the following terms and conditions:

1. Use of Fruits & Veggies—More Matters Logo, Messaging, and Related Materials

LICENSOR grants LICENSEE, its agents, and employees, a non-exclusive, non-transferable, royalty-free license, without the right to sublicense, and for use only in the United States, Canada, and Mexico. When using the Brand logo for promotional materials including, but not limited to, advertising, P-O-S materials, educational literature, websites, and complying products and recipes, the LICENSEE agrees to act in accordance with, and in the form and manner prescribed in, the Brand Guidelines. A list of criteria for products that may be promoted with the Brand logo is available in the “Products Promotable” section of the Brand Guidelines. The Brand Guidelines and criteria for products promotable may be revised from time to time at the sole discretion of LICENSOR and can be found at www.pbhfoundation.org.

2. Quality Maintenance Standards

LICENSEE shall comply at all times with the terms and conditions set forth in the Brand Guidelines. Images of the Brand logo provided by LICENSOR to LICENSEE may not be altered by LICENSEE in any way. Prior to distributing any materials bearing the Brand logo, LICENSEE shall submit such materials to LICENSOR for approval and will not commence use of such materials until LICENSOR provides such approval in writing. If any prototype or sample submitted is disapproved by LICENSOR, in its sole discretion, LICENSEE agrees to revise such prototypes or samples to conform to LICENSOR’s directions and specifications until approved. In the event that LICENSOR determines that such products and/or materials no longer comply with the Guidelines, LICENSOR shall provide written notice thereof to LICENSEE, and LICENSEE will have fifteen (15) days to correct such non-compliance. LICENSEE’S failure to do so shall result in immediate termination of this Agreement. LICENSEE shall comply with all applicable laws and regulations and obtain all appropriate government approvals pertaining to the promotion, packaging, advertising, and sale of goods covered by this Agreement.

3. Restrictions

- A. No promotional activity may be undertaken by a LICENSEE that could give the appearance of an endorsement by Produce for Better Health Foundation (PBH), the Centers of Disease Control and Prevention (CDC) or any other LICENSEE, of a specific product, service, or company. The use of PBH or CDC name on a specific product, service, or company without prior approval is prohibited.
- B. Use of the Brand logo by anyone other than an authorized LICENSEE is strictly prohibited. A licensed participant can loan the Brand logo to a supplier/printer/vendor to apply to materials produced for sole use by the LICENSEE consistent with Brand Guidelines. The supplier/printer/vendor, however, cannot then make the same materials available to others, unless that other company has a valid license/contract/agreement from LICENSOR.
- C. LICENSEE may not sell materials (that are not themselves fruits and vegetables) with the Brand logo without prior written permission from LICENSOR.

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4. Term and Termination

- A. Term.** This Agreement shall commence on the date on which the last party to sign executes this Agreement and shall continue until the earlier of: (i) LICENSEE's ceasing to be a donor in good standing of Produce for Better Health Foundation, or (ii) the termination of this Agreement, as provided herein. Either party may terminate this Agreement at any time without cause upon sixty (60) days' written notice to the other. Either party may terminate this Agreement after thirty (30) days from the delivery to the other party of written notice of material breach, or immediately in the case of LICENSEE's failure to comply with the Brand Guidelines and/or breach of a provision of any Section herein or in the event of any developments that negatively impact the image of the LICENSOR, the Brand, and/or the Brand logo.
- B. Termination.** Upon termination or expiration of this Agreement for any or no reason, all rights and privileges granted to LICENSEE hereunder shall automatically terminate, without the need for further action on the part of LICENSOR, and LICENSEE shall promptly discontinue all use of the Brand logo and remove the Brand logo from all future packaging. Notwithstanding the foregoing, and except in the case that this Agreement is terminated as the result of an uncorrected material breach by LICENSEE, LICENSEE may continue to use the Brand logo until its existing inventory of materials on which the Brand logo is used is depleted.

5. Miscellaneous

- A.** This Agreement will be governed in accordance with the laws of the state of Delaware, and the state and federal courts of Delaware shall have exclusive jurisdiction over any dispute arising hereunder. Each of the parties further agrees that venue will be proper if, and only if, a suit or other proceeding arising out of this Agreement is commenced in either a Delaware state or federal district court. The prevailing party in any legal action brought to enforce the terms of this Agreement shall be entitled to an award equal to its reasonable costs and actual attorneys' fees expended in pursuing such action.
- B.** This Agreement sets forth the entire agreement between the parties hereto and fully terminates and supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter; no change in, modification of, or addition, amendment, or supplement to this Agreement will be valid unless set forth in writing and signed by authorized representatives of each of the parties. There are no representations, warranties, conditions, covenants, or agreements between the parties other than as set forth herein.
- C.** Any provision of this Agreement which may be prohibited by law or otherwise held invalid will be ineffective only to the extent of such prohibition or invalidity and will not invalidate or otherwise render ineffective any of the remaining provisions of this Agreement. The failure of either party to promptly enforce or seek remedy for the breach of any provision of this Agreement will not constitute a waiver of such provision or any part thereof. No term or provision will be deemed waived, and no breach hereof will be deemed consented to, unless such waiver or consent is in writing and signed by authorized representatives of each party which has given such waiver or consent. Any such waiver or consent will not constitute a waiver of, or consent to, any other provision.

To be completed by LICENSEE:

Company Name: _____

Authorized Signature: _____ Date: _____

Name & Title (please print): _____

Primary contact person for Foundation correspondence (If different than above):

Name & Title (please print): _____

Street address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

E-mail address: _____ Website: _____

