

British Columbia Certified Organic Program



Conditions for Consent to Use Official Marks "Uncertified Suppliers"

On its own behalf and on behalf of the Province of British Columbia as represented by the Ministry of Agriculture and Lands, the Certified Organic Associations of British Columbia hereby grants consent to the undersigned Uncertified Supplier to use the Official Marks on and subject to the conditions set out below. The undersigned Uncertified Supplier hereby agrees to be bound by and comply with the Consent Conditions.

Executed and delivered by the parties as of _____ day of _____, 20__

Certified Organic Associations of
British Columbia

By: _____

Title:

By: _____

Title:

British Columbia Certified Organic Program Conditions for Consent to Use Official Marks

1. Definitions - In these Consent Conditions, the following words have the following meanings:

“Act” means the "*British Columbia Agri-Food Choice and Quality Act 2000*" as amended from time to time.

“Advertising Material” means information reproduced in print, electronic, or other media, the only function of which is to communicate advertising or promotional information, and does not include merchandise that has any additional function even if it also bears advertising or promotional information.

“BCMAL” means the Province of British Columbia as represented by the Ministry of Agriculture and Lands.

“Certificate” means a certificate, as defined in the Program Regulation that is issued to a Certificate Holder by a Certification Body.

“Certificate Holder” means a person engaged in the farming, gathering, processing, packaging, selling or handling of organic Food Products to whom a Certificate has been issued - may also be called a "licensee".

“Certified Products” means organic Food Products that meet the Prescribed Standards and are produced by a Certificate Holder.

“Certification Body” means an accredited producer certification body or trade certification body, as those terms are defined by the Program Regulation.

“COABC” means the Certified Organic Associations of British Columbia.

“Consent,” means the authorization to use the Official Marks conferred on an Uncertified Supplier pursuant to Consent Conditions.

“Consent Conditions” means the conditions governing an Uncertified Supplier's permitted Use of the Official Marks set out in this instrument or in another instrument prescribed or otherwise established by BCMAL from time to time.

“Food Product” has the meaning defined by the Act and Regulations from time to time.

“Granting Agency” when used in relation to a Certificate Holder, means the Certification Body that has issued a Certificate to the Certificate Holder.

“Official Marks” means the Phrase and the Program Symbol.

“Packaging” means bags, cartons, boxes, containers, wrapping, labels, tags and packing slips that hold or accompany a Food Product when it is sold or distributed.

“Phrase” means the words BRITISH COLUMBIA CERTIFIED ORGANIC.

“Prescribed Standards” means the standards for organic Food Products established under the Regulations.

“Program” means the British Columbia Certified Organic Program established under the Act and the Program Regulation.

“Program Policies and Standards” means all policies, standards, conditions and guidelines attached to Certificates or otherwise issued from time to time by BCMAL, COABC or a Certification Body to implement the Program, while they are in effect, including but not limited to the British Columbia Certified Organic Production Policies and Farm Management Standards and the User’s Guide.

“Program Regulation” means the British Columbia Organic Agricultural Products Certification Regulation, B.C. Reg. 200/93, as amended from time to time.

“Program Symbol” means the official Program Symbol prescribed or otherwise established by BCMAL as illustrated in the User’s Guide.

“Promotional Merchandise” means merchandise that is neither a Food Product nor Advertising Material and is sold or given away for the purpose of promoting or advertising another product, service or program.

“Regulations” means regulations passed pursuant to the Act, including but not limited to the Program Regulation, as amended from time to time.

“Uncertified Supplier” means a person engaged in the sale, handling, preparation, serving, catering or other supply of Certified Products who is not a Certificate Holder.

“Use” of Official Marks means either or both:

- (a) Reproducing Official Marks on Food Products, Packaging, Advertising Material or Promotional Merchandise; and
- (b) Selling or distributing Food Products, Packaging, Advertising Material or Promotional Merchandise that bear the Official Marks or otherwise in association with Official Marks.

“User’s Guide” means the British Columbia Certified Organic Program Symbol User’s Guide published by BCMAL.

2. Consent - On and subject to these Consent Conditions, an Uncertified Supplier may Use either or both of the Official Marks in the following ways:

- (a) Reproducing them on:
 - (i) Certified Products that are packaged, prepared, catered, sold or handled by the Uncertified Supplier;
 - (ii) Packaging and Advertising Material for those Certified Product; and
 - (iii) Promotional Merchandise promoting those Certified Products;
- (b) Selling or distributing those Certified Products in association with the Phrase or the Program Symbol; and

- (c) Publishing or distributing Packaging, Advertising Material, or Promotional Merchandise that bears the Official Marks in connection with the sale, distribution, advertising or promotion of Certified Products;

only for the purpose of indicating that Certified Products meet the Prescribed Standards and are covered by a subsisting Certificate, and for the purpose of advertising and promoting the sale of such Certified Products. The Uncertified Supplier will use and reproduce the Official Marks in accordance with the User's Guide and all the other terms of this agreement.

3. Duration - (a) Subject to paragraph (b) each Consent will be of infinite duration:

(b) BCMAL and the COABC may terminate the Consent as it applies to a particular Uncertified Supplier:

- i. by giving the Uncertified Supplier written notice, which will be effective 30 days after delivery to the Uncertified Supplier;
- ii. On account of a breach of these Consent Conditions by the Uncertified Supplier that is not corrected within seven days after the Uncertified Supplier is requested to do so, by giving the Uncertified Supplier written notice, which will be effective upon delivery to the Uncertified Supplier.

4. Regulations, Policies and Standards - Uncertified Suppliers shall comply strictly with the Act and Regulations and all Program Policies and Standards relating to the Official Marks or to the Food Products, Packaging, Advertising Material or Promotional Merchandise on or for which the Official Marks or to Food Products, Packaging, Advertising Material and Promotional Merchandise on or for which the Official Marks may be Used.

5. Other Laws and Standards - An Uncertified Supplier shall not Use the Official Marks for any Food Products, including Certified Products, unless the Food Products comply with all applicable laws, including food, health, consumer protection, packaging, and labelling laws, and with generally accepted industry standards.

6. Certificates - An Uncertified Supplier shall have copies of valid certificates for all food products for which the Official Marks are Used.

7. Misleading Uses - Uncertified Suppliers shall not Use the Official Marks in any way that might reasonably lead an ordinary consumer to conclude that a Food Product meets the Prescribed Standards or an Uncertified Supplier has received consent when that is not the case. Uncertified Suppliers shall not use the Official Marks in any manner that implies sponsorship of any other event, product, or service.

8. Ownership/ Enurement - All Official Marks are owned exclusively by the Province of British Columbia, and Uncertified Suppliers may Use the Official Marks only by way of the Consent. BCMAL has licensed COABC to grant Consents subject to these Consent Conditions. The good will associated with Use of the Official Marks by Uncertified Suppliers shall enure entirely to the Province.

- 9. Inspection** - Promptly, when requested to do so by BCMAL or the COABC, the Uncertified Supplier shall permit and assist inspectors or other representatives of BCMAL or the COABC to:
- (a) enter premises where the Uncertified Supplier reproduces or Uses the Official Marks or stores Food Products, Packaging, Advertising Material, Promotional Merchandise or other items bearing the Official Marks;
 - (b) observe the Uncertified Supplier's activities relating to the Official Marks and all Food Products, Packaging, Advertising Material, Promotional Merchandise and other items on or for which the Uncertified Supplier Uses or proposes to Use the Official Marks; and
 - (c) inspect all such Food Products, Packaging, Advertising Material, Promotional Merchandise or other items on or for which the Uncertified Supplier uses or proposes to use the Official Marks in the possession or control of the Uncertified Supplier or any representative or contractor of the Uncertified Supplier.
 - (d) Upon receipt of a complaint to the COABC, allow an inspection of the Uncertified Supplier's facility or facilities, and the costs of this inspection shall be borne by the Uncertified Supplier.
- 10. Samples** - If requested to do so, the Uncertified Supplier shall provide to the COABC or the BCMAL samples of any reproductions of the Official Marks that the Uncertified Supplier uses or proposes to use or samples of Food Products for which the Official Marks are being Used or will be Used by the Uncertified Supplier.
- 11. Good Faith** - Uncertified Suppliers shall not do anything that might impair, jeopardize, infringe or misuse the Official Marks or BCMAL's interest in the Official Marks, including without limitation, challenging the validity of the Official Marks, or BCMAL's interest in the Official Marks, or claiming, using, or applying to register any trademark, certification mark, appellation of origin, business name, copyright or design that is identical, or confusingly similar to any of the Official Marks or that is derived from or based on the Official Marks.
- 12. No Transfers** - The Uncertified Supplier shall not grant permission to use the Official Mark to any other person.
- 13. Compliance** - No Uncertified Supplier shall Use any Official Marks or carry on any other activities involving Official Marks except as expressly permitted by these Consent Conditions or by separate written instrument signed by a representative of the BCMAL.

- 14. Contractual - Effect** - These Consent Conditions form a binding contract between the Uncertified Supplier, the COABC and BCMAL. The COABC and BCMAL may enforce a violation by an Uncertified Supplier of any of these Consent Conditions as a breach of contract in addition to all other rights and remedies available to them. Neither BCMAL nor the COABC make, and they will not be bound by, any representations or warranties regarding the Official Marks or any other matter, and they will have no liability to the Uncertified Supplier in connection with use by the Uncertified Supplier of the Official Marks or otherwise.
- 15. Changes** - BCMAL may amend, supplement or replace these Consent Conditions from time to time by giving Uncertified Suppliers written notice of same, which shall be effective immediately on delivery to those parties or a later date specified in the notice. Uncertified Suppliers shall execute and deliver all documents that BCMAL requires to implement fully those amendments, supplements and replacements. Uncertified Suppliers shall not amend, supplement, or replace these Consent Conditions unless BCMAL and the COABC agree in writing.