

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	LICENSE		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Sutter Home Winery, Inc.		07/23/2010	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Oregon Brewing Company		
Street Address:	2320 OSU Drive		
City:	Newport		
State/Country:	OREGON		
Postal Code:	97365		
Entity Type:	CORPORATION: OREGON		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	77774033	MÉNAGE À FROG	
CORRESPONDENCE DATA			
Fax Number:	(707)255-6876		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	707-252-7122		
Email:	tmdept@dpf-law.com		
Correspondent Name:	J. Scott Gerien		
Address Line 1:	809 Coombs Street		
Address Line 4:	Napa, CALIFORNIA 94559		
ATTORNEY DOCKET NUMBER:	SUTT1-856		
NAME OF SUBMITTER:	J. Scott Gerien		
Signature:	/J. Scott Gerien/		
Date:	08/18/2010		

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Total Attachments: 5

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TRADEMARK AND TRADE NAME LICENSE AGREEMENT

MENAGE A FROG

THIS EXCLUSIVE LICENSE AGREEMENT ("License Agreement"), made and effective as of the last date of signature, by and between Sutter Home Winery, Inc., a California corporation with a principal place of business at P.O. Box 248, 100 St. Helena Highway South, St. Helena, CA 94574 ("Licensor"), and Oregon Brewing Company, an Oregon corporation with a principal place of business at 2320 OSU Drive, Newport, Oregon 97365 ("Licensee").

WHEREAS, Licensee heretofore has used the trademark **MENAGE A FROG** ("the Mark") in connection with beer;

WHEREAS, Licensor has acquired from Licensee the Mark and the goodwill of the business symbolized thereby; and

WHEREAS, Licensee wishes to continue exclusively using the Mark for beer, and Licensor is willing to permit such exclusive use of the Mark by Licensee for beer on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the parties agree as follows:

1) **Grant.**

(a) Licensor agrees to and does hereby grant to Licensee an exclusive royalty-free license to use the Mark as a trademark in connection with beer, such beer being limited to an annual production of no more than 400 barrels packaged in kegs, growlers and 750 ml bottles (the "Licensed Beer"). During the term of the License Agreement, neither Licensor nor any party other than Licensee shall use the Mark on alcohol beverage products.

(b) Any bottle of the Licensed Beer shall feature the same graphics and imagery as that used by Licensee on the effective date of this License Agreement. A copy of such imagery is attached hereto as Exhibit 1. If any new bottle packaging is contemplated to be used by Licensee in association with the Licensed Beer, such bottle packaging shall not feature any imagery similar to that used by Licensor. Licensor shall have the right to approve such new bottle packaging, and such approval shall not be unreasonably withheld by Licensor.

(c) During the term of this License Agreement and thereafter, Licensee shall not contest or otherwise challenge or attack Licensor's rights in the Mark or the validity of the license granted. However, in the event Licensor ceases use of all marks encompassing the term "MENAGE" on alcohol beverage products for a period of three consecutive years and, other than the licensed use of the Mark to Licensee, there is no licensed use of any of Licensor's marks encompassing the term "MENAGE" on alcohol beverage products during such same three year period, Licensee shall no longer be bound by the License Agreement and Licensor shall assign all rights in the Mark to Licensee.

2) **Quality.** Licensee shall maintain the same or better standards of quality for the Licensed Beer as those established and in effect for the MENAGE A FROG beer as of the effective date of this License Agreement. Licensee shall also comply with all applicable laws and regulations and obtain all appropriate government approvals pertaining to the labeling, sale, distribution and advertising of the Licensed Beer. Within two weeks of execution of the License Agreement, Licensee shall provide to Licensor two bottles of the MENAGE A FROG beer to establish this quality standard.

3) **Quality Control.**

a) Licensee agrees to provide to Licensor by December 31st of each year, to the attention of General Counsel for Sutter Home Winery at 100 St. Helena Highway South, Napa, CA 94574, two bottles of the Licensed Beer for purposes of determining if the quality standards set forth above are being maintained.

b) In the event Licensor finds the samples of the Licensed Beer to be of substantially inferior quality when compared to Licensee's previous production of the MENAGE A FROG beer, Licensee may submit another sample in the event the quality of the original samples was compromised. If the quality is still found to be substantially inferior by Licensor, Licensee may request that a sample be evaluated by a neutral third-party mutually agreeable to both parties and the decision of the neutral third-party as to whether the quality standard has been met shall be binding upon both parties.

c) Upon reasonable notice and during regular business hours, and no more than once per calendar year, Licensor shall be allowed to conduct an audit of Licensee's records at Licensee's place of business to verify that the volume and packaging restrictions of the License are being adhered to. The costs for such audit shall be borne by Licensor.

4) **Term and Termination**

(a) Unless voluntarily terminated by Licensee by notifying Licensor in writing of its intent to cease use of the Mark, or sooner terminated in accordance with the provisions of this License Agreement, the term of this License Agreement shall be for ten (10) years from the effective date of this License Agreement and shall be automatically renewed for additional consecutive ten (10) year terms upon the terms and conditions contained herein.

(b) Should Licensee cease doing business or cease use of the Mark for a period of three consecutive years, this License Agreement shall automatically terminate.

(c) Licensor shall have the right to immediately terminate this License Agreement on written notice to Licensee should Licensee: (i) breach any of the provisions of this License Agreement relating to the unauthorized assertion of rights in the Mark; or (ii) become insolvent, is generally not paying its debts as such debts become due, makes an assignment for the benefit of creditors, is the subject of any voluntary or involuntary case commenced under the federal bankruptcy laws, as now constituted or hereafter amended, or any other proceeding under the applicable laws regarding bankruptcy, insolvency, reorganization, adjustment of debt or other forms of relief for debtors in any jurisdiction; has a receiver, trustee, liquidator, assignee, custodian or similar official appointed for it or for any substantial part of its property; is the

subject of any dissolution or liquidation proceeding, or takes corporate action in furtherance of any of the foregoing.

(d) In the event that Licensee fails to perform any of its obligations hereunder, Licensor may give to Licensee written notice of termination. Said notice of termination shall specify the obligation which Licensee failed to perform. If failure to perform is not cured within thirty (30) days of receipt of said notice or substantial steps are not being taken by Licensee to consummate performance, this License Agreement shall be terminated upon expiration of such thirty (30) days. Except as provided herein, if failure to perform is not fully cured within ninety (90) days of receipt of said notice, this License Agreement shall be terminated upon expiration of such ninety (90) days.

(e) Upon expiration or termination of this License Agreement for any reason whatsoever, all rights granted hereunder shall automatically revert to Licensor and Licensee shall cease and desist, thereafter, from all use of the Mark in any way. If the License Agreement is terminated based upon Licensee's termination of the License Agreement, Licensee and/or its successor in interest shall be entitled to an orderly phase out of the uses of the Mark over a term not to exceed one hundred eighty (180) days provided the Mark is only being used on and in association with the Licensed Beer.

5) **Licensor's Ownership.** Licensee agrees nothing herein shall give to the Licensee any right, title or interest in the Mark, except the right to use the Mark in accordance with the terms of this License Agreement, that the Mark is the sole property of Licensor and that any and all uses by Licensee of the Mark, inure to the benefit of Licensor.

6) **Indemnity by Licensee.** Licensor assumes no liability to Licensee or to third parties with respect to the Licensed Beer. Licensee shall and hereby does indemnify Licensor and its directors, officers, agents, representatives and employees and shall hold same harmless from any liability, claim, judgment, penalty, loss, cost, damage or expense (including reasonable attorneys' fees) arising out of or in connection with Licensee's advertisement, promotion, offering for sale, and/or sale of the Licensed Beer. Licensee shall also maintain product liability insurance for the Licensed Beer in an amount equal to or greater than \$5,000,000.00. Such product liability insurance policy shall also identify Licensor as an additional insured and Licensee shall provide a certificate of such product liability insurance coverage naming Licensor as an additional insured to Licensor within 10 days of execution of this License Agreement.

7) **Successors and Assigns; Assignment.** This License Agreement shall be binding upon and inure to the benefit of the Parties' respective successors and assigns.

8) **No Joint Venture.** This License Agreement creates no agency relationship between the parties hereto, and nothing herein contained shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have power to obligate or bind the other in any manner whatsoever. However, Licensee shall be considered a "related company" within the meaning of 15 U.S.C. §1127 for the purposes of establishing trademark rights in the Mark based on Licensee's use thereof, and Licensee's use of the Mark shall inure to the benefit of Licensor.

9) **Severability.** If any term, provision, covenant or restriction of this License Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable,

the remainder of the terms, provisions, covenants and restrictions of this License Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this License Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner so that the transactions contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

10) **Integration.** This License Agreement comprises the entire understanding of the parties hereto on the subject matter herein contained, and supersedes and merges all prior and contemporaneous agreements, understandings and discussions between the parties relating to the subject matter of this License Agreement. Any modification of this License Agreement shall be by a written instrument signed by the parties hereto.

11) **Governing Law.** This License Agreement shall be governed by and construed according to the laws of the State of California without regard to conflict of laws principles.

12) **Authority.** The parties respectively represent and warrant that they are under no legal impediment which would prevent their signing this License Agreement or consummating the same. The individual signing this License Agreement on behalf of the parties represent and warrant that they are authorized and have the power to bind the parties.

By their execution below, the parties hereto have agreed to all of the terms and conditions of this License Agreement.


Sutter Home Winery, Inc.

By: 

Title: PRESIDENT & CEO

Dated: 7/23/10

Oregon Brewing Company

By: 

Title: President

Dated: 7-13-10

EXHIBIT 1

