

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM447077

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
ZACKY & SONS POULTRY, LLC		10/12/2017	Limited Liability Company: CALIFORNIA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	GEMCAP LENDING I, LLC		
<b>Street Address:</b>	24955 Pacific Coast Highway, Suite A202		
<b>City:</b>	Malibu		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	90265		
<b>Entity Type:</b>	Limited Liability Company: DELAWARE		
<b>PROPERTY NUMBERS Total: 8</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	2781924	ZACKY FARMS	
<b>Registration Number:</b>	1351943	ZACKY FARMS	
<b>Registration Number:</b>	4045537	THE CALIFORNIAN	
<b>Registration Number:</b>	4031760	TENDER GOLD	
<b>Registration Number:</b>	4406006	SAMUEL'S RANCH	
<b>Registration Number:</b>	4406005	INTERNATIONAL POULTRY	
<b>Registration Number:</b>	4931634	LILLIANZ RANCH	
<b>Serial Number:</b>	86673467	THE WESTERNER	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	2125865095		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	2123818726		
<b>Email:</b>	rboghosian@ctswlaw.com		
<b>Correspondent Name:</b>	Robert A. Boghosian		
<b>Address Line 1:</b>	420 Lexington Avenue, Suite 2400		
<b>Address Line 4:</b>	New York, NEW YORK 10170		
<b>NAME OF SUBMITTER:</b>	Robert A. Boghosian		
<b>SIGNATURE:</b>	//Robert A. Boghosian//		

OP \$215.00 2781924

<b>DATE SIGNED:</b>	10/12/2017
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**Total Attachments: 9**

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## PATENT AND TRADEMARK SECURITY AGREEMENT

This Patent and Trademark Security Agreement (the “Agreement”), dated as of October 12, 2017, is made by and between ZACKY & SONS POULTRY, LLC, a California limited liability company (the “Company”), having a business location at the address set forth below next to its signature, and GEMCAP LENDING I, LLC, a Delaware limited liability company (together with its successors and assigns, “GemCap”), having a business location at the address set forth below next to its signature.

### Recitals

A. Company and GemCap are parties to a Loan and Security Agreement dated as of the date hereof (as amended, supplemented or restated from time to time, the “Loan Agreement”), setting forth the terms on which GemCap may now or hereafter extend credit to or for the account of Company.

B. As a condition to extending credit to or for the account of Company, GemCap has required the execution and delivery of this Agreement by Company.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Loan Agreement that are not otherwise defined herein shall have the meanings given to them in the Loan Agreement. In addition, the following terms have the meanings set forth below:

“Patents” means all of Company’s right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

“Security Interest” has the meaning given in Section 2.

“Trademarks” means all of Company’s right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, and (iv) licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit B.

2. Security Interest. Company hereby irrevocably pledges and assigns to, and grants GemCap a security interest (the “Security Interest”), with power of sale to the extent permitted by this Agreement, the Loan Agreement, or law, in the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Loan Agreement, the Security Interest is

coupled with a security interest in the Collateral. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application, unless such action is permitted under 15 U.S.C. §1060.

3. Representations, Warranties and Agreements. Company represents, warrants, and agrees as follows:

(a) **Existence; Authority.** Company is a limited liability company duly organized, validly existing and in good standing under the laws of its state of formation, and this Agreement has been duly and validly authorized by all necessary corporate action on the part of Company.

(b) **Patents.** Exhibit A accurately lists all Patents owned or controlled by Company as of the date hereof, or to which Company has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, Company owns, controls or has a right to have assigned to it any Patents not listed on Exhibit A, or if Exhibit A ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then Company shall promptly provide written notice to GemCap with a replacement Exhibit A, which upon acceptance by GemCap shall become part of this Agreement.

(c) **Trademarks.** Exhibit B accurately lists all Trademarks owned or controlled by Company as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that Exhibit B need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to Company's or any Affiliate's business(es). If after the date hereof, Company owns or controls any Trademarks not listed on Exhibit B (other than common law marks which are not material to Company's or any Affiliate's business(es)), or if Exhibit B ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then Company shall promptly provide written notice to GemCap with a replacement Exhibit B, which upon acceptance by GemCap shall become part of this Agreement.

(d) **Affiliates.** As of the date hereof, no Affiliate of the Company owns, controls, or has a right to have assigned to it any items that would, if such item were owned by Company, constitute Patents or Trademarks. If after the date hereof any Affiliate of the Company owns, controls, or has a right to have assigned to it any such items, then Company shall promptly either: (i) cause such Affiliate of the Company to assign all of its rights in such item(s) to Company; or (ii) notify GemCap of such item(s) and cause such Affiliate of the Company to execute and deliver to GemCap a patent and trademark security agreement substantially in the form of this Agreement.

(e) **Title.** Company has absolute title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all Liens except Permitted Liens. Company (i) will have, at the time Company acquires any rights in Patents or Trademarks hereafter arising, absolute title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens.

(f) **No Sale.** Except as permitted in the Credit Agreement, Company will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without GemCap's prior written consent.

(g) **Defense.** Company will at its own expense and using commercially reasonable efforts, protect and defend the Patents and Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(h) **Maintenance.** Company will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Company covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing GemCap: (i) sufficient written notice, of at least 30 days, to allow GemCap to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(i) **GemCap's Right to Take Action.** If Company fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after GemCap gives Company written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if Company notifies GemCap that it intends to abandon a Patent or Trademark, GemCap may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of Company (or, at GemCap's option, in GemCap's own name) and may (but need not) take any and all other actions which GemCap may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(j) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Company shall pay GemCap all of GemCap's costs and expenses in accordance with the Loan Documents.

(k) **Power of Attorney.** To facilitate GemCap's taking action and exercising its rights under this Agreement, Company hereby irrevocably appoints (which appointment is coupled with an interest) GemCap, or its delegate, as the attorney-in-fact of Company with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Company, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by Company under this Section 3, or, necessary for GemCap, upon the occurrence and during the continuance of an Event of Default, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. Company hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Loan Agreement as provided therein and the payment and performance of all Obligations.

4. Company's Use of the Patents and Trademarks. Company shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Reserved.

6. Remedies. Upon the occurrence and during the continuance of an Event of Default and at any time thereafter, GemCap may, at its option, take any or all of the following actions:

(a) GemCap may exercise any or all remedies available under the Loan Agreement or under the Code or other applicable law.

(b) GemCap may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

(c) GemCap may enforce the Patents and Trademarks and any licenses thereunder, and if GemCap shall commence any suit for such enforcement, Company shall, at the request of GemCap, do any and all lawful acts and execute any and all proper documents required by GemCap in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by GemCap. A waiver signed by GemCap shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of GemCap's rights or remedies. All rights and remedies of GemCap shall be cumulative and may be exercised singularly or concurrently, at GemCap's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar

the exercise or enforcement of any other. All notices to be given to Company or GemCap under this Agreement shall be given in the manner and with the effect provided in the Loan Agreement. GemCap shall not be obligated to preserve any rights Company may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Company and GemCap and their respective participants, successors and assigns and shall take effect when signed by Company and delivered to GemCap, and Company waives notice of GemCap's acceptance hereof. GemCap may execute this Agreement if appropriate for the purpose of filing, but the failure of GemCap to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by Company shall have the same force and effect as the original for all purposes of a financing statement. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.


8. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; ARBITRATION. The terms of Sections 14.9, 14.10, and 14.11 of the Loan Agreement are incorporated herein by reference, *mutatis mutandis*.

[signature on next page]

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

Zacky & Sons Poultry, LLC  
2020 S. East Ave.  
Fresno, CA 93778  
Attn: Lillian Zacky

ZACKY & SONS POULTRY, LLC

By:   
Print Name: Lillian D. Zacky  
Title: Manager

GemCap Lending I, LLC  
24955 Pacific Coast Highway, Suite A202  
Malibu, CA 90265  
Attn: David Ellis

GEMCAP LENDING I, LLC

By: \_\_\_\_\_  
Print Name: David Ellis  
Title: Co-President



IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

Zacky & Sons Poultry, LLC  
2020 S. East Ave.  
Fresno, CA 93778  
Attn: Lillian Zacky

ZACKY & SONS POULTRY, LLC

By: \_\_\_\_\_  
Print Name: Lillian D. Zacky  
Title: Manager

GemCap Lending I, LLC  
24955 Pacific Coast Highway, Suite A202  
Malibu, CA 90265  
Attn: David Ellis

GEMCAP LENDING I, LLC

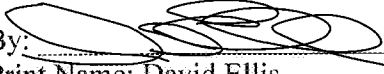
By:  \_\_\_\_\_  
Print Name: David Ellis  
Title: Co-President

EXHIBIT A

UNITED STATES ISSUED PATENTS AND PATENT APPLICATIONS

None.

EXHIBIT B

UNITED STATES ISSUED TRADEMARKS

Trademark	Registration Number	Registration Date	Expiration Date
Zacky Farms	2781924	11-11-2003	11-11-2023
Zacky Farms(Stylized)	1351943	07-30-1985	
THE CALIFORNIAN	4045537	10-25-2011	10-25-2021
Tender Gold	4031760	09-27-2011	09-27-2021
Samuel's Ranch	4406006	09-24-2013	09-24-2023
International Poultry	4406005	09-24-2013	09-24-2023
LillianZ Ranch	4931634	04-05-2016	04-05-2026
The Westerner	86673467	11-10-2015	12-30-2017