

# USA - LICENSE AGREEMENT

## TRADEMARKS SEAFOOD FROM NORWAY®

- (1) Norges sjømatråd AS (The Norwegian Seafood Council)  
Org. no 988 597 627

Registered address:

Stortorget 1  
9291 Tromsø, Norway

Postal address:

Postboks 6176  
9008 Tromsø, Norway

*(hereinafter "NSC" or "Party")*

and

- (2) Company name  
Org. no  
Address  
Postal code/city, Country

*(hereinafter "Licensee" or "Party")*

*NSC and Licensee (jointly "Parties")*

have today concluded the following License Agreement:

## 1. EXHIBITS

The following documents and any attached exhibits to these documents form an integral part of this License Agreement:

Exhibit 1: License Application

Exhibit 2: Exporter Declaration

Exhibit 3: Trade Mark(s)

## 2. BACKGROUND

NSC shall promote marketing and export of Norwegian Seafood. NSC is the owner and proprietor of the Trade Mark(s) and the Marketing Material.

The Licensee is a producer, importer or exporter of Norwegian Seafood who wishes to use the Trade Mark(s) and/or the Marketing Material in connection with its production, distribution, marketing and/or sale of Norwegian Seafood products.

NSC may grant other entities license to use the Trade Mark(s) under terms which may differ from those set forth in this License Agreement.

NSC has agreed to grant the Licensee a license to use the Trade Mark(s) on the terms and conditions set out in this Agreement.

The License Agreement covers the use of the Trade Mark(s) for Products and labels which has been approved by NSC.

## 3. DEFINITIONS

In this Agreement the following expressions shall have the following meanings:

**"Agreement"** means this License Agreement inclusive of the Exhibits listed in Section 1.

**"Approval Certificates"** means one or more certificates issued by the relevant national authority which allows the Licensee to produce or import seafood.

**"Norwegian Seafood"** means seafood which originates from fish or other marine products as defined in art. 1 of the Norwegian Fish Export Act No 9 of 27 April 1990 and which naturally inhabits the seawaters or freshwaters of Norway and is caught or farmed in compliance with Norwegian sectorial regulations and landed on Norwegian land territory.

**"Products"** means the products approved by the NSC, provided that these qualify as Norwegian Seafood, and are classified under chapter 3, with the exception of flours, meals and pellets of fish, fit for human consumption (HS Code 030510), and chapter 16, position 16.04 and/or 16.05 in the HS Nomenclature.

**"Trade Mark(s)"** means the trademark applications and trademark registrations as set out in Exhibit 3, referred to separately or jointly, as the case may be.

**"Marketing"** means production, distribution, marketing and/or sale of Products.

**"Marketing Material"** means materials used for the Marketing of Norwegian Seafood which is made by or on behalf of NSC and which may be made available to the Licensee from time to time.

**"Territory"** means the United States.

## 4. LICENSEE'S WARRANTIES AND INDEMNIFICATION

4.1 The Licensee warrants that:

- where required, it has valid Approval Certificates,
- it shall notify NSC immediately if one or more of its Approval Certificates are revoked, expired, terminated, limited or if any similar actions are applied which affects Licensee's ability to produce or import seafood in the Territory,
- it will comply with any legal requirements applicable for its business in the Territory as regards for instance, but not limited to, declaring Products under proper customs tariff codes and furnishing and applying required and mandatory food information to the Products as per applicable laws and regulations,
- it will obtain all licenses, permits and consents necessary for the Marketing of the Products in the Territory,
- its Marketing of products which are labelled with the Trade Mark(s) shall be limited to the Products approved, and conducted in a way which NSC determines does not jeopardise the goodwill of the Trade Mark(s), NSC or the reputation of Norwegian Seafood and does not mislead consumers,
- Licensee's own trademarks used in conjunction with the Trade Mark(s) do not violate any third party rights, and
- it will only use the Trade Mark(s) in compliance with the terms and conditions set out in this Agreement.

4.2 Indemnification:

- Licensee shall indemnify, defend and hold harmless NSC against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out of or resulting from any third party claim, suit, action or proceeding (each, an "Action") related to or arising out of: (a) the breach of this Agreement by Licensee, and (b) Licensee's exercise of its rights granted under this Agreement, including but not limited to any product liability claim or third party intellectual property rights infringement claim relating to Products manufactured, supplied or put into use by Licensee (c) use of the Marketing Materials, or (d) Licensee's use of Licensee's own trademarks or other intellectual property, except for any Action based solely on trademark infringement arising out of the use by Licensee of the Trade Marks in accordance with this Agreement.

## 5. LICENSOR'S MAINTENANCE OF THE TRADE MARK(S)

5.1 The Licensor will pay any renewal fees for registered Trade Mark(s) when applicable, in order to maintain a registration where maintenance of registrations at NSC's sole discretion is considered relevant.

## 6. GRANT OF LICENSE

6.1 NSC grants the Licensee a non-exclusive, royalty-free, non-transferable, non-assignable, non-sublicensable license to use the Trade Mark(s) and the Marketing Material in association with Products, which have been approved by NSC, subject to the terms and conditions set out in this Agreement and solely in connection with the Licensee's Marketing of the Products in the Territory for the

- duration of this Agreement. Any goodwill in the Trade Mark(s) existing either prior to or arising during the term of this license is owned by NSC. Licensee assigns any goodwill arising during the term of the license to NSC as and when it arises.
- 6.2 NSC may, from time to time and at NSC's sole discretion, provide certain Marketing Materials to the Licensee. NSC may withdraw any Marketing Material or its permission to the Licensee to use such Marketing Material at any time.
- 6.3 The Trade Mark(s) and the Marketing Material may only be used where Norwegian Seafood is the main ingredient, and cannot be used on, or in connection with, any of the following:
- (a) products that are not perceived as a seafood product by the average consumer;
  - (b) products where the use of the Trade Mark and/or Marketing Material would mislead consumers;
  - (c) products which also contain and/or are mixed with seafood from other territorial origins than Norway, or which otherwise does not comply with the definition of Norwegian Seafood as set out herein;
  - (d) products not intended for human consumption;
  - (e) additives and food supplements;
  - (f) products containing non-negligible volumes of other animal protein such as chicken, pork or beef or are marketed as such products;
  - (g) products where the use of the Trade Mark and/or Marketing Material, in NSC's sole discretion, would jeopardise the distinctiveness and goodwill of the Trade Mark, NSC or the reputation of Norwegian Seafood; or
  - (h) products also labelled with the Licensee's trademark(s) where Licensee's trademark(s), in NSC's sole discretion, would jeopardise the goodwill of the Trade Mark, NSC or the reputation of Norwegian Seafood.
- 6.4 The Trade Mark(s) used on the Products shall only be used together with the Licensee's own trade mark and/or any trade mark of their customer(s), and the Trade Mark(s) may not form a dominant part. The Licensee's own trade mark(s) and/or any trade mark of their customer(s) may not be designed in a manner or contain words or other elements which may be confused with the Trade Mark(s) or in any way misleading consumer or others into believing that these are related to products of NSC or that NSC and Licensee are in any way partners, joint ventures or affiliated companies. The Licensee's own trade mark and/or any trade mark of their customer(s) must be accompanied by a product description (e.g. "Norwegian Salmon" or similar). The product description must be clearly displayed on the product/packaging. NSC may, upon request by the Licensee or on its own initiative, provide further guidance regarding the proper use of the Trade Mark(s) in specific contexts, in which case the Licensee shall follow the instructions or suggestions provided by NSC.
- 6.5 The Licensee shall have no right to use the Trade Mark(s) in connection with any other products than on the Products.
- 6.6 The Trade Mark(s) and Marketing Material may only be used by Licensee on/in connection with Products which are imported or bought from companies which are registered exporters of Norwegian Seafood and which may furnish export declarations and/or Norwegian catch certificates.
- 6.7 All and any product packaging which the Licensee wishes to use in association with the Trade Mark(s), shall be presented and accepted by NSC in writing prior to commercial use.
- 6.8 If the Licensee wishes to use the Trade Mark(s) on any electronic medium, e.g. the Internet, such material shall be provided to NSC and accepted in writing prior to external use. If the Licensee wishes to use the Trade Mark(s) on any other marketing or printed material, NSC has the right to ask for samples for approval. NSC shall have full discretion to accept or deny any proposed product packaging or other use of

the Trade Mark(s) and shall bear no liability for any delay or denial of such proposed product packaging or use of the Trade Mark(s).

## 7. TRACKING INSTRUCTIONS, REPORTING AND AUDITS

- 7.1 In order to prevent that seafood which is not Norwegian Seafood is labelled or marketed with the Trade Mark(s), the Licensee shall use a tracking system which enables control of all products labelled with Trade Mark(s) or in any other way marketed with Trade Mark(s), which can trace and document that the products sold under the Trade Mark(s) origin from Norwegian Seafood, and otherwise are subject to a License under this Agreement,
- 7.2 The Licensee's tracking system shall be documented, reliable and verifiable. It may be checked and audited by a third party auditor appointed by the NSC.
- 7.3 All products and seafood that are sold or marked with the Trade Mark(s) must be handled in such a manner that each component and/or ingredient's true place of origin can be traced throughout the entire manufacturing and processing phase until the finished goods and/or products are packed in accordance with the relevant labelling and food information requirements.
- 7.4 In particular, and notwithstanding the generality of the above, the Licensee must be able to verify that it:
- has a legitimate tracking systems enabling the tracing of true place of origin of components used in any product and/or seafood labelled with the Trade Mark,
  - at all times ensures that raw material purchased as Norwegian Seafood is accompanied by a Norwegian catch certificate, where applicable, which may be furnished at any given time upon express request by NSC and/or the third party auditor,
  - at all times has systems and controls to ensure that the production and manufacturing of a product bearing a Trade Mark is clearly separated and not mixed with any other manufacturing processes for other type(s) of product(s),
  - at all times is able to trace and document all handling, alteration, processing, dividing or segmentation of Norwegian Seafood which is done within the Licensee's control and activities, from receipt of the raw material to dispatch of any product or seafood, and
  - at all times keeps records allowing the calculation of value and volume of Norwegian Seafood received and the value and volume later sold with a Trade Mark or later dispatched.
- If the Licensee employs any third parties or subcontractors during handling of the Norwegian Seafood Licensee shall ensure that this third party will comply with this Agreement
- 7.5 The Licensee shall on a regular basis, minimum once a year, report to NSC regarding the Licensee's use of the Trade Mark(s). The Licensee's reports shall be in a format and with the information and specifications reasonably requested by the NSC. NSC sets the deadlines for the reports.

In addition to the regular reports, NSC may request to:

- examine samples of products available on the market without notification,
- carry out inspections of the Licensee's use of the Trade Mark(s), and Marketing Material without notification,
- have access to information from and access to relevant data bases, files or records in addition to other data as well as statistics available or which may be produced, provided such request(s) are reasonable, in order to ensure the protection of the Licensee's confidential information, and that the request(s) are restricted to information strictly relating to the Licensee's performance of this Agreement, and

- ask for information regarding the volume of Norwegian Seafood received by the Licensee (calculated in kilograms) and volumes sold with a Trade Mark or later dispatched by the Licensee.
- 7.6 As part of the NSC License program, and in order to preserve the integrity of the Trade Mark(s), NSC will annually request third party audit of selected manufacturer(s), costs of which will be borne by NSC.
- 7.7 If NSC believes or has reason to believe, at NSC's sole discretion, that the Licensee is not in compliance with requirements under this Agreement, NSC may at any time request a separate third party audit.
- 7.8 Without limiting the foregoing, Licensee shall be in compliance with any applicable traceability laws and regulations.
- 7.9 In the event of non-compliance of this clause 7, and without limiting any other remedies available, the Licensee is obliged to immediately withdraw the applicable Products from the market.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1 The Licensee acknowledges that NSC is the owner and proprietor of the Trade Mark(s) and the Marketing Material, and that the Licensee shall not obtain or claim any right(s) to the Trade Mark(s) or the Marketing Material except for the right to license as expressly set out in this Agreement.
- 8.2 The Licensee shall not register or use any domain names or trademarks which contain text or figurative elements included in or similar to elements included in the Trade Mark(s) or which may in any other way be confused with or associated with NSC or the Trade Mark(s).

## **9. NON-COMPLIANT MARKETING**

- 9.1 Should NSC, in its sole discretion, determine that the Trade Mark(s) are used in a manner that is misleading or in any other way in an abusive manner inconsistent with this Agreement or the image or reputation of NSC or Norwegian Seafood, this will be deemed a material breach of the Agreement. Further, NSC may demand compensation for all losses (both economic and non-economic).
- 9.2 In so far non-compliance with this Agreement is established following third party audit, NSC will demand compensation for all costs incurred in connection with the audit and Licensee agrees to reimburse such costs.

## **10. INFRINGEMENT OR UNAUTHORISED USE BY THIRD PARTIES**

- 10.1 In the event that the Licensee becomes aware of any infringement of NSC's intellectual property by a third party, including unauthorised use of the Trade Mark(s) or the Marketing Material, it shall promptly notify NSC so that NSC may take enforcement action against that third party. Licensee shall cooperate fully with NSC in any actions NSC may take to enforce and protect its intellectual property rights.
- 10.2 NSC disclaims any warranties as to registrability of the Trade Mark(s), or infringement of third parties' rights, merchantability, and fitness for a particular purpose with regard to the Products or Marketing Materials on which the Trade Mark(s) are used.

## **11. DURATION AND TERMINATION**

- 11.1 This Agreement shall enter into force upon the last date of signature of this Agreement, and shall expire at the date of 3 years thereafter. The Parties may agree in writing to extend the Agreement for subsequent 3 year periods.

- 11.2 During any current Agreement period, both Parties may terminate the Agreement for convenience at any time during the term of the Agreement by giving the other Party at least 90 days prior written notice. The termination may cover all licensed Trade Mark(s) or a specific Trade Mark.
- 11.3 This Agreement and the license hereunder to all Trade Marks and Marketing Material terminates with immediate effect in the event that (i) the Licensee enters into liquidation, becomes insolvent or discontinues its general course of business, (ii) the Licensee is in breach of any of its obligations set out in clause 4, 6, 7, 8 or 9, (iii) the Licensee's Approval Certificates are revoked, expired, terminated or similar, (iv) registered Trade Mark is being revoked or held invalid or (v) the Licensee is in material breach of this Agreement.
- 11.4 On termination or expiry of this Agreement, the Licensee shall immediately cease the use of the Trade Mark(s) and the Marketing Material. Products produced or imported more than 14 days prior to the termination or expiry may be marketed and sold in the Territory for a period of maximum 30 days after termination or expiry, and any such sale or Marketing shall be in compliance with this Agreement.
- 11.5 In case of termination pursuant to this Section 11, the NSC cannot, under any circumstance, be held liable for costs and/or losses incurred and/or future loss of profits by the Licensee, whether direct or indirect.

## **12. NO PARTNERSHIP OR AGENCY**

- 12.1 Nothing in this Agreement is intended to create a partnership, joint venture or legal relationship of any kind that would impose liability upon one Party for the acts or omissions of the other Party.

## **13. DISPUTE RESOLUTION AND GOVERNING LAW**

- 13.1 This Agreement and any other matter arising from or in connection with it shall be governed by and construed in accordance with Norwegian law.
- 13.2 Any dispute, controversy or claim arising out of or in connection with this Agreement shall first be sought to be settled amicably. If an amicable solution is not reached within 30 days of a request by either Party to enter into negotiations to resolve the dispute, controversy or claim, then such dispute, controversy or claim shall be finally settled by the Arbitration Institute of the Stockholm Chamber of Commerce in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of the arbitration shall be Stockholm, Sweden. The arbitral tribunal shall be composed of three arbitrators. The arbitration shall be conducted in the English language. The arbitration proceedings and the arbitral award shall be kept private and confidential. For the avoidance of doubts, this clause does not prevent either Party from seeking injunctive or other immediate relief from a competent court in the applicable jurisdiction.

## License Application

For use of the “Seafood from Norway” trademark outside Norway

Company name and main office address	
Labelling site address (site of final packaging)	
Country	
<p><b>Will you re-export Norwegian seafood products to other countries? If yes, where?</b></p> <p><i>Products labelled with the mark “Seafood from Norway” can only be retailed in the country or custom union where the production takes place.</i></p>	
Official company registration number	
Contact person (name and title)	
E-mail	
Phone	
<p><b>Which Norwegian seafood/fish products do you intend to label with the trademark “Seafood from Norway”?</b> (E.g. Norwegian mackerel, herring, capelin, clipfish, salted fish, stockfish, salmon, trout, prawns, king crab, snow crab).</p>	
<p><i>Note: When the License Agreement is signed, all products labelled with the trademark must be approved by the NSC prior to commercial use.</i></p>	

Management Systems		
Mark checkbox and attach required documentation <u>if</u> you are certified against any of the standards.		
CERTIFIED MANAGEMENT SYSTEMS	REQUIRED DOCUMENTATION	ATTACHMENT NAME
<input type="checkbox"/> Certified against one or several international standards (Global Food Safety Initiative ( <a href="#">GFSI</a> ), Marine Stewardship Council (MSC) chain of custody or Aquaculture Stewardship Council (ASC) chain of custody ( <a href="#">MSC CoC</a> or <a href="#">ASC CoC</a> ), Global G.A.P. Chain of Custody ( <a href="#">Global G.A.P CoC</a> )).	Copy of a valid certificate.	
<input type="checkbox"/> Not certified against any international standard.		



## Exporter Declaration

*[insert name and address of the Norwegian Exporter]*

The undersigned Norwegian Exporter (hereinafter the “Exporter”) is made aware that the Norwegian Seafood Council may enter into a Licence Agreement with the manufacturer (“Licensee”) listed below.

*[insert name and address of manufacturer]*

The undersigned is advised that the Licensee will only be allowed to use the Trade Marks which are owned by the Norwegian Seafood Council on/in connection with Norwegian Seafood. Such Norwegian Seafood shall only be imported or bought from companies registered as exporters of Norwegian Seafood, and which may furnish export declarations and/or Norwegian catch certificates.

The undersigned is aware that Norwegian Seafood may be imported directly or indirectly by the Licensee.

With this background the undersigned declares that the following products, which are exported by the undersigned, comply with the definition of Norwegian Seafood as defined in the License Agreement:

"Norwegian Seafood" means seafood which originates from fish or other marine products as defined in art. 1 of the Norwegian Fish Export Act No 9 of 27 April 1990 and which naturally inhabits the seawaters or freshwaters of Norway and is caught or farmed in compliance with Norwegian sectorial regulations and landed on Norwegian land territory.

*[insert product name and specifications]*

If delivery to the above-named Licensee (directly or indirectly) is discontinued, the Norwegian Seafood Council will be notified of this as soon as possible by the Exporter.

## Trade Mark(s)

The License Agreement shall cover the use by the Licensee of the Trade Mark(s)  
**SEAFOOD FROM NORWAY** in the following versions:





SEA FROM  
FROM NORWAY

The logo consists of the words 'SEA FROM' stacked vertically on the left, and 'FROM NORWAY' stacked vertically on the right. To the right of 'FROM NORWAY' is a vertical bar composed of three rectangular segments: a grey segment at the top, a black segment in the middle, and a grey segment at the bottom.



SEA FROM  
FROM NORWAY

The logo consists of the words 'SEA FROM' stacked vertically on the left, and 'FROM NORWAY' stacked vertically on the right. To the right of 'FROM NORWAY' is a vertical bar composed of three rectangular segments: a black segment at the top, a grey segment in the middle, and a black segment at the bottom.

The trademarks are covered by the following trademark applications/registrations:

- Norwegian trademark: registration numbers 291526, 291525, 291524 and 291523.
- EU trademark: EUIPO serial number 016744419 and 016744492. Pending applications.
- Madrid Protocol trademark: pending applications.

Notwithstanding which color combinations of the above trademarks that have been applied/registered in the relevant jurisdiction, all varieties of the above trademarks are proprietary to Norges sjømatråd AS (the Norwegian Seafood Council).