



Certified South African Wagyu Beef

Trade Mark Licence Agreement

1. Introduction

The Wagyu Society of South Africa (WSA) has established the Certified South African Wagyu Beef (CWB) program which aims to ensure the integrity of the South African Wagyu beef supply chain and so assure the end customer of Wagyu product reliability and quality. The CWB program will certify all sectors of the Wagyu supply chain to:

- Provide a consistent and reliable message to consumers regarding Wagyu beef as a product
- Provide the South African Wagyu industry with the opportunity to produce, market and brand the Wagyu product appropriately; and
- Protect the investment made by WSA members.

Certified South African Wagyu Beef is a registered trademark of WSA that is used to certify the origin and quality of beef that is marked and sold under this trade mark. The CWB trade mark is to ensure that all animals and beef produced and sold under the trade mark conform to specific CWB Protocol conditions in terms of how animals were bred, reared, feedlot finished, slaughtered, processed, packed and marketed.

Participation in the CWB program is subject to a Certified South African Wagyu Beef Trade Mark Licence Agreement and is open to all role players in all sectors of the South African beef cattle supply chain that agree to adhere to the CWB Protocol which sets minimum mandatory requirements for each sector, including:

- Seedstock (Stud) breeders
- Commercial/Emerging Producers
- Feedlots
- Abattoirs
- Deboning and Meat Processing plants
- Wholesalers
- Retailers; and
- Restaurants.

You are invited to apply for participation in the Certified South African Wagyu Beef program.

2. Application

I, the undersigned, do hereby apply to become a participant in the Certified South African Wagyu Beef program. I understand that if my application is approved by the Wagyu Society of South Africa the information below will be included in the Certified South African Wagyu Beef Trade Mark Agreement which I will then sign. I understand that in signing the Agreement I will be entering into

to a legally binding agreement requiring me to adhere to the terms and conditions specified in the Agreement and its Protocol.

TYPE OF MEMBERSHIP FOR WHICH APPLICATION IS MADE (mark A, B, C, D or E with a v)

| A | INDIVIDUAL
| C | PARTNERSHIP

| B | COMPANY / CLOSED CORPORATION
| D | OTHER Describe here:

.....

| E | TRUST –

2.1 NAME OF APPLICANT – if you are NOT an individual registering under your SURNAME

.....

2.2 SURNAME (if an individual):

2.3. FULL FIRST NAME(S)

2.4. TITLE (state Prof, Dr, Mr, Ms Etc.) **6.** ID nr:

2.5 VAT REGISTRATION NUMBER:.....

2.6 REGISTRATION NUMBER OF COMPANY / CC / TRUST:.....

2.7 POSTAL ADDRESS: POSTAL CODE:

2.8 PHYSICAL ADDRESS (if a farm include FARM NAME):

.....

.....

2.9 TOWN and PROVINCE

2.10 TELEPHONE: Home (Code + No):

2.11 TELEPHONE: Work (Code + No):

2.12. FAX (Code + No):

2.13 CELLPHONE No:

2.14 E-Mail:

2.15. REQUEST FOR HERD LETTERS FROM DAFF FOR COMMERCIAL HERDS: Supply a 3 letter combination, e.g. ABZ, JKP, SZM. No figures (0 to 9) are allowed. These unique letters must be branded to identify you as a breeder.

These herd letters are independent of your registered identification mark (brand) in terms of the Animal Identification Act. Mark not applicable "N/A" if not including a cattle herd.

1st choice: | | | 2nd choice: | | | | 3rd choice: | | | |

Not applicable:

This Agreement dated _____ day of _____ 2018

Between the Parties

Wagyu Society of South Africa (reg no 62/98/B 71) of 9 Genius Loci Office Park, 6 CP Hoogenhout street, Langenhoven park, Bloemfontein, South Africa

(Licensor)

And

[NAME OF APPLICANT AS PER ABOVE 2.2 and 2.3]

(Licensee)

Recitals

- A The Licensor is the owner of the Certified South African Wagyu Beef Logo which is a registered certification trade mark in the Republic of South Africa and certain other countries and which is well-known and respected within the Republic of South Africa and internationally.
- B The Licensor wants to allow the Licensee to use that Logo and the related trade marks in accordance with the terms of this agreement.
- C The Licensee has lodged a valid Application to use the Logo on specified Products.
- D. The Licensor has agreed to grant a licence to the Licensee for use of the Logo for the Permitted Use on the terms of this Agreement.

Agreed Terms

3. Interpretation

3.1 Definitions

In this agreement:

“Application” means the application, either in digital or hard copy, that must be submitted to the Licensor by any person wishing to use the Logo as a certification trade mark on nominated products;

“Commencement Date” means the date upon which this agreement is fully executed;

“Licence Fee” means the fees referred to in Item 1 of the schedule;

“Licensor’s Bank Account” means the bank account details of which are set out in Item 5 of the schedule;

“Logo” means the Logo details of which are set out in Item 2 of the schedule;

“Logo Representations” means the representations of the Logo details of which are set out in Item 4 of the schedule;

“Permitted Use” means the production of the Products according to the Protocol;

“Producers” means the Republic of South Africa based manufacturers, processors, growers, exporters or distributors of the Products being purchased by the Licensee pursuant to this contract;

“Products” means goods registered by the Licensee with the Licensor under the Protocol as being approved to bear the Logo;

“Protocol” means the Certified South African Wagyu Beef Protocol, which may be amended by the Licensor from time to time, a copy of which is annexed to this agreement as Annexure A;

“Suppliers” means the Republic of South Africa based manufacturers, processors, growers, exporters or distributors of the Products being sold by the Licensee pursuant to this contract;

"Trade Mark Registration Details" means the Trade Mark registration details which are set out in Item 3 of the schedule;

"Trade Marks" means

- (i) the Logo;
- (ii) the Trade Mark Registration Details
- (iii) the Logo Representations; and
- (iv) such other registered or unregistered trade marks which the Licensor notifies in writing to the Licensee from time to time.

3.2 Construction

In this agreement unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations, partnerships and any other entities recognised by law;
- (d) references to clauses and schedules are to clauses of and schedules to this agreement; and
- (e) references to R or Rand are to Republic of South Africa rand currency;
- (f) if a word or a phrase is defined, cognate words or phrases have corresponding definitions.

4. Grant of Licence

4.1 Grant of licence

Subject to the terms of this agreement, the Licensor grants to the Licensee a licence to use the Trade Marks on or in relation to the Products for the Term.

4.2 Protocol

The Protocol forms part of this agreement and a breach of same will amount to a breach of this agreement.

4.3 Rights personal to the Licensee

The rights given by this agreement are personal to the Licensee and are not saleable or transferable in any manner whatsoever and the Licensee must not in any way sublicense, encumber, mortgage or grant rights under this agreement to any other person other than in accordance with the terms of this document and any attempt to do so will be void.

5. Use of Trade Marks

5.1 Use of the Trade Marks

- (a) The Licensee acknowledges that the Logo and the Logo Representations are of great value to the Licensor and have a significant international reputation which would suffer great damage if the Licensee were to use the Trade Marks other than in accordance with this agreement.
- (b) The Licensee must therefore only use the Trade Marks in accordance with this agreement and the Protocol.

5.2 Recognition of validity of the Trade Marks

- (a) The Licensee must not challenge or in any manner impugn the validity or, where applicable, the registration of the Trade Marks, ownership by the Licensor of the Trade Marks or the exclusive rights of the Licensor to take appropriate measures for the protection of the Trade Marks.
- (b) The Licensee acknowledges that:
 - (i) all intellectual property rights in the Trade Marks are owned by the Licensor; and
 - (ii) the Licensee has no right, title or interest in the Trade Marks other than the rights granted by this agreement.

5.3 Reporting infringement

The Licensee must promptly report to the Licensor particulars of any use by any third party of a trade name, trade mark, copyright work or get up of goods, mode of advertising, mark or design which might reasonably amount to infringement of any of the Trade Marks or to unfair competition or passing off or other equivalent or similar breach of any applicable law.

5.4 Allegations of invalidity

If the Licensee becomes aware that any third party alleges that the Trade Marks are invalid or that the Trade Marks infringe any rights of that third party or that the Trade Marks are open to any other form of attack the Licensee must not make any admission but must promptly report full details of the matter to the Licensor.

5.5 Conduct of proceedings

The Licensor will have the conduct of all proceedings relating to the Trade Marks but nothing in this agreement will impose any obligation on the Licensor to defend any action or proceedings in relation to the Trade Marks or take proceedings for their infringement or passing off.

5.6 Full co-operation

If the Licensor in its absolute discretion takes or defends any proceedings relating to the Trade Marks, the Licensee must fully co-operate with the Licensor and provide any assistance reasonably required in relation to such proceedings.

5.7 Indemnity

The Licensee will indemnify the Licensor against any action or claim brought against the Licensor as a result of the Licensee's use of the Trade Marks.

6. Producers and Suppliers

6.1 List of Producers and Suppliers

- (a) Immediately upon the execution of this agreement, the Licensee must provide to the Licensor a full list of its current Producers and Suppliers, including full contact details.
- (b) During the Term, the Licensee must keep the Licensor informed of any changes to this list of Producers and Suppliers.

6.2 Sharing of information

The Licensee must use its best endeavours to facilitate the sharing of information between its Producers and Suppliers and the Licensor regarding all aspects of the production and supply of the Products to and from the Licensee.

7. Warranty and indemnity

7.1 Warranty

The Licensee warrants that:

- (a) the Products will at all times comply with the rules and conditions for the use of the Trade Marks as detailed in the Protocol;
- (b) it will maintain documentary records sufficient to demonstrate the compliance of the Products with the relevant criteria set out in the Protocol;

- (c) all material published by it on the Licensor's website is true and correct, complies with the law and does not infringe the rights of any third party;

and

- (d) any carcass information provided to the Licensor as the basis for calculation of the Licence Fee will be an accurate statement of actual sales (expressed in equivalent Rand) or an honest projection of estimated sales of the Products, as the case may be.

7.2 Indemnity

The Licensee must indemnify the Licensor against all losses, costs, demands, expenses and liabilities whatsoever arising out of or referable to any circumstances which would not have arisen but for a breach of the warranties given in clause 5.1.

8. Licence Fee

8.1 Payment of Licence Fee

- (a) In consideration of the rights granted to it by the Licensor under this agreement, the Licensee must pay to the Licensor the Licence Fee as prescribed in Item 1 and a small charge to cover associated bank transaction fees as determined from time to time by the Licensor.
- (b) The Annual Licence Fee as prescribed in Item 1 is payable annually by the Licensee within 30 days of receipt of a valid tax invoice from the Licensor.
- (c) The Carcass Licence Fee as prescribed in Item 1 is payable by the Licensee providing they are the owner of the Certified South African Wagyu compliant carcass at the time of carcass assessment and is payable within 30 days of receipt of a valid tax invoice from the Licensor.

8.2 Payment to nominated account

All payments to the Licensor under this agreement must be made to the Licensor's Bank Account.

8.3 Licensee to keep accounts and records

During the Term and thereafter for a period of 24 months after the dates of the transactions to which they relate, the Licensee must keep at its principal office true and correct accounts and records of all sales and records of the Products.

9. Compliance audit and inspection of documents

9.1 Compliance audit

- (a) The Licensee agrees to submit to compliance audits in respect of its use of the Trade Marks as may be required from time to time by the Licensor during the Term and as set out in the Protocol.

- (b) The Licensee must cooperate fully with the Licensor or its authorised representatives in their conducting a compliance audit under clause 7.1(a).
- (c) The Licensee agrees to pay the costs associated with conducting any such audit.

9.2 Inspection of documents

At the time of the Licensor or its authorised representatives conducting an audit under clause 7.1 or after giving reasonable notice, the Licensor or its representatives may inspect and audit the accounts and records of the Licensee relating to the production and sale of the products and all other matters directly or indirectly relevant to the calculation of the amount of any payment due to the Licensor.

The Licensor or its representatives may take copies of or extracts from any such records.

10. Term

This Agreement will commence on the Commencement Date and will continue unless terminated under clause 10.

11. Termination

11.1 Termination By Either Party

This agreement may be terminated:

- (a) by the mutual agreement of the parties in writing;
- or
- (b) by either party by notice to the other party if
 - (i) the other party fails to remedy any breach of this agreement within 14 days of receiving written notice from the first party requiring it to do so, or commits any breach of this agreement incapable of remedy;
 - (ii) the other party has an agent in possession, mortgagee in possession, administrator, manager and receiver or receiver appointed of the whole or any substantial part of its assets or if any order is made or a resolution passed for the winding up of the other party;
- or
- (iii) the other party becomes insolvent or makes an assignment for the benefit of creditors or any arrangements pursuant to bankruptcy law or if the other party discontinues business or if the other party ceases to do business.

11.2 Termination by Licensor

The Licensor will have the right to terminate this agreement and the licences under it immediately by notice in writing to the Licensee upon the happening of any of the following events:

- (a) the Licensee does not meet the requirements of Clause 3.1 and in particular

- (i) uses the Trade Marks in a way that is likely to damage their reputation or that of the Licensor ; or
 - (ii) uses the Trade Marks on products not manufactured or grown in the Republic of South Africa; or
 - (iii) uses the Trade Marks on products other than the Products; or
- (b) the Licensee commits or suffers any act or omission which does or is reasonably likely to damage the reputation of the Trade Marks or that of the Licensor.

12. Consequences of Agreement Ending

12.1 No use after termination or expiry

The rights of the Licensee to use the Trade Marks will expire with this agreement and following termination of this agreement the Licensee will not at any time use the Trade Marks or any other name or sign confusingly similar to the Trade Marks.

12.2 Rights and obligations of the Licensee

- (a) Where the agreement is terminated by the Licensor pursuant to clause 9.2, the Licensee must within 30 days withdraw from sale any products carrying the Trade Marks on their packaging and remove or cause to be removed from public display any sign, label or poster incorporating the Trade Marks in the possession power or control of the Licensee and provide the Licensor with a declaration that it has done so.
- (b) Where the agreement is terminated by the Licensee for whatever reason, the time frame associated with the termination should be such that the contract remains in place until there is no further stock for sale which carries the Trade Marks on its label or packaging. Thereafter, the Licensee must make no further use of signage or point of sale material which carries the Trade Marks and must remove them or cause them to be removed from public display and provide the Licensor with a declaration that it has done so.

13. Variations to Agreement

Any modification, alteration, change or variation of any term and condition of this agreement will only be made in writing and executed by the parties.

14. Severability

The provisions of this agreement will be deemed to be severable and any invalidity of any provision of this agreement will not affect the validity of the remaining provisions.

15. Notices

15.1 Notices by electronic mail

Any notice required or authorised to be given by any party to another concerning anything relating to this agreement will be in writing and may (without prejudice to the use of any other method) be given by being sent by electronic mail to the email address stated in Item 6. Any

notice given by electronic mail will be deemed to have been properly served when the sender's electronic mail system produces a return receipt or confirmation stating that the electronic mail was received by the addressee.

15.2 Notice when office not open

If any notice given under this clause is given on a day when the office of the party to whom it is addressed is not open for business the notice will be deemed to have been given on the next day on which such office is open for business.

16. Entire Agreement

This agreement constitutes the entire agreement of the parties and there are no other oral undertakings, warranties or agreements between the parties relating to the subject matter and this agreement is not based upon any representations as to profit or worth nor has any representation been made (whether by this agreement or otherwise) to induce the Licensee or the Licensor to accept and execute this agreement.

17. Governing Law

This agreement will be construed in accordance with and be governed by the laws of the Republic of South Africa and the parties hereby submit to the jurisdiction of the Courts of the Republic of South Africa.

Schedule

Item 1 **Licence Fee**

The licence fee is that amount in the Republic of South Africa Rand set in accordance with the current fee schedule as determined from time to time by the Licensor and in particular includes the:

- (i) Application fee of R500
- (ii) Annual Licence Fee of R500.00;
- (iii) DAFF Herd Designation Mark (If applicable) R300
- (iv) Carcass Licence Fee of one percent (1%) of the carcass value as prescribed by the Certified South African Wagyu Carcass Value Chart which may be amended from time to time by the Licensor.

Item 2 **The Logo**



Item 3 **Trade Mark Registration Details**

The Trade Mark Republic of South Africa registration details are as follows:

Trade Mark Owner	Trade Mark	Registration number	Commencement date	Classes
Wagyu Society of South Africa	Refer to Item 2	2018/12135-8	20180502	29,31,35,44 44

Item 4 **Logo Representations**





Item 5 Licensor's Bank Account

Bank name:	Standard bank A/C B/Code055534, Cheque A/C
Branch:	Brandwag 055534
Account name:	Wagyu Society of South Africa
Account number:	370224434

Item 6 Contact Details

For the Licensor: Dr Michael Bradfield
Chief Executive Officer
Wagyu Society of South Africa
9 Genius Loci, 6CP Hoogenhout St, Langenhoven park,
Bloemfontein, South Africa
Tel: +27 51 492 1852
Mobile: +27 (82) 857 0961

E-mail: ceo@wagyu.org.za

Execution

By the Licensor

Executed by Wagyu Society of South Africa, CNreg no 62/98/B 71, in accordance with the Animal Improvement Act 1998

Chief Executive Signature

Witness

Print Name

Print Name

By the Licensee

Executed by the Licensee in accordance with its Constitution:

Chief Executive Signature

Witness

Print Name

Print Name

[Insert Protocol]

Annexure A