

HAZELNUT MARKETING BOARD
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BONDING UNDERTAKING

WHEREAS, certain handlers of hazelnuts grown in Oregon and Washington have entered into a Marketing Agreement with the Secretary of Agriculture of the United States, known as “Marketing Agreement Regulating the Handling of Hazelnuts Grown in Oregon and Washington,” and being Agreement No. 115 of the Marketing Agreement series of the United States Department of Agriculture; and that said Secretary of Agriculture has, pursuant to the provisions of the Agriculture Marketing Agreement Act of 1937, as amended, issued a Marketing Order for handlers of hazelnuts grown in Oregon and Washington, said Order being known as the “Marketing Order Regulating the Handling of Hazelnuts Grown in Oregon and Washington” (Order) and being Order No. 982 of the Order series of the United States Department of Agriculture; and said Marketing Agreement and said Order are each now in full force and effect; and

WHEREAS, Section 982.50 of said Marketing Agreement and said Order provides, subject to certain exceptions, that every handler shall withhold from handling a quantity of hazelnuts equal to the restricted percentage of the merchantable equivalent of all inshell hazelnuts handled by such handler for his account during the fiscal year; and

WHEREAS, said Marketing Agreement and said Order each provide in section 982.54 as follows:

§ 982.54 Deferment of restricted obligation

(a) Bonding. Compliance by any handler with the requirements of § 982.50 when restricted hazelnuts may be withheld shall be temporarily deferred to any date requested by the handler, but not later than 60 days prior to the end of the marketing year. Such deferment shall be conditioned upon the voluntary execution and delivery by the handler to the Hazelnut Marketing Board (Board) of a written undertaking before beginning to handle merchantable hazelnuts during the marketing year. Such written undertaking shall be secured by a bond or bonds with a surety or sureties acceptable to the Board that, on or prior to such date the handler will have fully satisfied the restricted obligation required by § 982.50, subject to any adjustment pursuant to § 982.51.

(b) Bonding requirement. Such bond or bonds shall, at all times during their effective period, be in such amounts that the aggregate thereof shall be no less than the total bonding value of the handler’s deferred restricted obligation. The bonding value shall be the deferred restricted obligation poundage bearing the lowest bonding rate or rates, which could have been selected from the packs handled or certified for handling, multiplied by the applicable bonding rate. The cost of such bond or bonds shall be borne by the handler filing same.

(c) Bonding rate. Said bonding rate for each pack shall be an amount per pound as established by the Board. Until bonding rates for a marketing year are fixed, the rates in effect for the preceding marketing year shall continue in effect. The Board should make any necessary adjustments once such new rates are fixed; and

WHEREAS, the principal named herein is a handler of hazelnuts as defined in each said Marketing Agreement and said Order and is now about to ship hazelnuts, and desires to take advantage of the provisions of said Marketing Agreement and said Order, as set forth above, whereby a bond may be filed in lieu of immediately withholding his restricted hazelnuts;

NOW THEREFORE, the undersigned handler, in consideration of being allowed to file said bond and thereby delay the time of withholding said restricted hazelnuts, does hereby undertake and agree that he will on or before April 30, 20____, comply with the provisions of section 982.54 of each said Marketing Agreement and Order, and fully satisfy his restricted obligation required by said section 982.54; and in the event of failure so to do, will pay the Board or its successors, in cash, a sum equal to the bonding value of such quantity or a part thereof which such packer so fails to withhold; which sum is hereby agreed upon as liquidated damages for such failure.

Dated this _____ day of _____, 20____.

Signature of Handler

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