

FEE AGREEMENT
November 8, 2017

Simas Taylor LLP ("Firm") and **Chabot-Las Positas Community College District**, a public entity ("Client") agree the Firm will provide legal services to Client on the terms set forth below.

1. **CONDITIONS.** This Agreement will not take effect, and the Firm will have no obligation to provide legal services, until Client returns a signed copy of this Agreement.
2. **SCOPE OF SERVICES.** Client hires Firm, namely **Brian Simas** as responsible attorney, to provide the following legal services to Client: (1) formation of a non-profit corporation, and (2) preparation and processing of applications with appropriate government agencies for the newly formed non-profit entity to operate a bonded winery on Las Positas College facilities. Firm will perform those additional legal services reasonably required to represent Client. Firm will take reasonable steps to keep Client informed of progress and to respond to Client's inquiries. This Agreement does not cover litigation services of any kind, whether in: court, mediation arbitration, administrative hearings, or government agency hearings. Services in any matter not described in this Section 2 will require a separate written agreement. The Firm will not provide client any tax services or advice and firm does not warrant Client will qualify as a tax exempt entity with state and federal authorities. Client understands and acknowledges it will need to separately file documentation with state and federal agencies to obtain tax exempt status for its non-profit corporation and that Client will engage tax counsel to prepare, file and process such applications. Further, Client agrees it will utilize outside third party counsel to determine and assist in the qualification of the non-profit corporation formed by the Firm as an auxiliary corporation of the school and the appropriate internal operating and accounting procedures required to operate the auxiliary corporation.
3. **CLIENT'S DUTIES.** Client agrees to cooperate with the Firm and Firm personnel; to be truthful with Firm; to keep Firm informed of any information or developments which may come to Client's attention; to abide by this Agreement; to pay Firm's bills on time; and to keep Firm advised of Client's contact information, including Client's email address, telephone number, and mailing address. Client will assist Firm in providing information and documents necessary for the representation in the described matter.
4. **DEPOSIT.** Client shall pay and advance retainer deposit for provision of Firm's licensing services as defined in Section 2.2 above. The deposit shall be in the amount of \$4,246.00. *Please reference the Advance Deposit Invoice sent under separate cover for payment.* Firm shall have no obligation to provide services to Client until the forgoing deposit is paid in full. Unless Firm withdraws before the completion of the licensing services defined in Section 2, or otherwise fails to perform services, the deposit and fee will be earned in full and no portion of it will be refunded once any material services have been performed.
5. **LEGAL FEES AND BILLING PRACTICES.** Client agrees to pay by the hour at Firm's prevailing rates for all time spent by Firm's legal personnel on Client's matters. Current hourly rates for legal personnel are:

Attorney Rates

- \$285/hour for Brian F. Simas
- \$285/hour for Courtney E. Taylor
- \$50-\$250/hour for Contract Attorneys

Staff Rates

\$100/hour

The foregoing rates are subject to change on 30 days' written notice to Client. If Client declines to pay any increased rates, Firm shall have the right to withdraw as Firm for Client.

The time charged by Firm personnel will include time spent on all forms of communication (e.g. email, telephone, text, facsimile) relating to Client's matter, including communications with Client and other parties and firms. The legal personnel assigned to Client's matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Firm may charge for travel time upon prior agreement with Client. Time is charged in minimum units of one tenth (0.1) of an hour.

6. **COSTS AND OTHER CHARGES.** In general, Firm will incur costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses incurred by Firm in performing services under this Agreement for Client, in addition to the legal fees described under Section 5. Costs and expenses charged to Client by Firm may include expenses and fees fixed by law or assessed by public agencies, messenger and other delivery fees, postage, photocopying and other reproduction costs, and other similar items. Except for the items listed below, all costs and expenses will be charged to Client at Firm's cost.

Photocopying:	\$.10/page
Printing:	\$.10/page

7. **INTEREST CHARGES.** If a billing statement is not paid within 30 days of Client's receipt, interest will be charged on the principal balance (fees, costs, and disbursements) shown on the statement. Interest will be calculated by multiplying the unpaid balance by the periodic rate of .833% per month (ten percent (10%) annual percentage rate). The unpaid balance will bear interest until paid.

8. **BILLING STATEMENTS.** Firm will send Client periodic statements for fees and costs incurred. Each statement will be payable within 30 days of its mailing date. Client may request a statement at intervals of no less than 30 days. Upon Client request, Firm will provide a current statement within 10 days. Firm statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount.

9. **DISCHARGE AND WITHDRAWAL.** Client may discharge Firm at any time. Firm may withdraw with Client's consent or for good cause. Good cause includes Client's breach of this Agreement, refusal to cooperate or to follow Firm's advice on a material matter or any fact or circumstance that would render Firm's continuing representation unlawful or unethical. When Firm's services conclude, all unpaid charges will immediately become due and payable. After services conclude, Firm will, upon Client's request, deliver Client's file and property in Firm's possession, whether or not Client has paid for all services.

10. **DISCLAIMER OF GUARANTEE AND ESTIMATES.** Nothing in this Agreement and nothing in Firm's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Firm makes no such promises or guarantees. Firm's comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by Firm shall not be a guarantee. Actual fees may vary from estimates given.

11. **ARBITRATION.** Any controversy between the parties regarding the construction, application or performance of any services under this Agreement, and any claim arising out of or relating to this Agreement or its breach, shall be submitted to binding arbitration upon the written request of one party after the service of that request on the other party. The parties shall appoint one person to hear

and determine the dispute. If the parties cannot agree, then the Superior Court of Santa Barbara County shall choose an impartial arbitrator whose decision shall be final and conclusive on all parties. Firm and Client shall each have the right of discovery in connection with any arbitration proceeding in accordance with Code of Civil Procedure Section 1283.05. The parties shall bear their own legal fees and costs.

12. **STATE BAR FEE ARBITRATION.** Notwithstanding Section 11 above, in any dispute subject to the jurisdiction of the State of California over attorney's fees, charges, costs or expenses, Client has the right to elect arbitration pursuant to the fee arbitration procedures of the State Bar of California, as set forth in California Business and Professions Code Section 6200, et seq. Those procedures permit a trial after arbitration, unless the parties agree in writing, after the dispute has arisen, to be bound by the arbitration award. If, after receiving a notice of client's right to arbitrate, Client does not elect to proceed under the State Bar fee arbitration procedures, and file a request for fee arbitration within 30 days, any dispute over fees, charges, costs or expenses, will be resolved by binding arbitration as provided in Section 11. Because each party is giving up a right, Client is encouraged to have an independent lawyer of Client's choice review these arbitration provisions before agreeing to them. By initialing below, Client and Firm confirm that they have read and understand Sections 11 and 12, and voluntarily agree to binding arbitration. In doing so, Client and Firm voluntarily give up important constitutional rights to trial by judge or jury, as well as rights to appeal. Client is advised that Client has the right to have an independent lawyer of Client's choice review these arbitration provisions, and this entire Agreement, prior to initialing this provision or signing this Agreement.

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13. **ATTORNEYS' FEES.** The prevailing party in any action or proceeding arising out of or to enforce any provision of this Agreement, with the exception of a fee arbitration or mediation under Business and Professions Code Sections 6200-6206, will be awarded reasonable attorneys' fees and costs incurred in that action or proceeding, or in the enforcement of any judgment or award rendered.

14. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

15. **SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

16. **MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.

17. **EFFECTIVE DATE.** This Agreement will govern all legal services performed by Firm on behalf of Client commencing with the date Firm first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Firm the reasonable value of any services Firm may have performed for Client.

Signature follows on next page

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE FIRM FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. THE CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.

Chabot-Las Positas Community College District,
a public entity

By: _____
Lorenzo Legaspi
Its: Vice Chancellor of Business Services

Simas Taylor LLP

By: _____
Brian Simas
Its: Partner