



CPCNW Proprietary Material Distribution Authorization

This agreement ("Agreement") is made on the date of final signature below ("Effective Date"), between Washington State University, an institution of higher education and agency of the state of Washington, by and through its Clean Plant Center Northwest ("CPCNW"), located at the Washington State University Irrigated Agriculture Research and Extension Center ("WSU-IAREC"), Prosser, WA, and _____, ("Sponsor"), for the release, sale, or distribution of propagative material ("Material") from the proprietary plant selection named in Section 1 to the third party ("Client") named in Section 2.

1. PROPRIETARY MATERIAL INFORMATION

- a. Name of Material Variety / Cultivar: _____
- b. CPCNW Accession ID: _____
- c. Species and/or Common Name of Material: _____
- d. Country of Origin: _____
- e. Type of Material to be Distributed: _____
- f. Amount of Material to be Distributed: _____

2. CLIENT'S CONTACT INFORMATION:

_____	_____
Print Name of Client	Client Email Address
_____	_____
Client Mailing Address	Client Phone Number

Client Fax Number	

3. IT IS MUTUALLY AGREED THAT:

- a. This agreement covers a single release, sale, or distribution to a single customer.



- b. The Material is not in violation of state or federal laws regarding plant variety introduction, and Sponsor warrants that possession and use of the plant material by the CPCNW in accordance with this Agreement does not infringe on any proprietary or intellectual property rights held by others.
- c. The CPCNW shall not be held responsible for any spontaneous genetic change or performance change as a result of testing and treatment by CPCNW, nor shall the CPCNW be held responsible for the release of any Material unknowingly having any genetic or other change.
- d. The Sponsor is responsible for conducting licensing and/or Material transfer agreements with the customer.
- e. CPCNW agrees to provide, upon request, dispatch notification to the Sponsor of Material shipped. Furthermore, if provided by the Sponsor, the CPCNW agrees to include intellectual property statements with Materials shipped.
- f. The CPCNW will arrange shipment and/or retrieval of Material for the Client.
- g. The Client will pay the appropriate charges for the Material as defined by the CPCNW in Attachment A, CPCNW Service Price Schedule and for the shipment and/or retrieval of the Material.

4. TERMS:

- a. Liability. Washington State University, its officers, agents, employees, and registered volunteers, when acting in good faith and within the scope of their official duties in the performance of this Agreement, are covered by the State of Washington's Self Insurance Liability Program and the Tort Claims Act (RCW 4.92.060), and successful claims against WSU and CPCNW may be paid from the Tort Claims Liability Account as provided in RCW 4.92.130.
 - i. The CPCNW shall not be responsible for any spontaneous genetic change or performance change as a result of testing or treatment by CPCNW, nor shall the CPCNW be responsible for the release of any Material unknowingly having any genetic or other change. CPCNW encourages and may facilitate genotyping of Material by a third party at the Sponsor's direction and expense.
 - ii. The CPCNW shall not be held responsible for the loss, damage, or theft of Material owned by the Sponsor while retained in CPCNW facilities.
- b. Indemnity. Each party to this Agreement shall be responsible for its own acts and omissions and for those of its officers, employees, and agents in the performance of this Agreement. No party to this Agreement shall be responsible for the acts or omission of those entities not a party to this Agreement.
- c. Use of Marks. The name, marks, brand, or logos of Washington State University, or any of its departments, personnel, or CPCNW project shall not be used in advertising of any kind in connection with the work or results under this project without express written permission of the duly authorized representatives of Washington State University.
- d. Amendments. This Agreement may be amended or modified only upon the mutual written consent of the parties.
- e. Assignment. The rights and obligations of the parties hereunder may not be assigned in whole or in part without the express prior written consent of the other party.
- f. Dispute Resolution. In the event that a dispute arises under this Agreement that the parties cannot resolve, they shall allow the dispute to be decided by a Dispute Panel in the following manner: each party to this



Agreement shall appoint one member to the Dispute Panel, and the members so appointed shall jointly appoint a third member to the Dispute Panel. The Dispute Panel shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Panel shall be final and binding on the parties hereto. The parties shall share equally in the costs, if any, of the services of the Dispute Panel.

- g. Attorneys' Fees. In the event of litigation or other action brought to enforce the terms of this Agreement, each party shall bear its own attorneys' fees.
- h. Force Majeure. In the event that the parties' obligations under this Agreement are substantially delayed, prevented, or rendered impractical or impossible by fire, flood, riot, earthquake, civil commotion, war, strike, lockout, labor disturbances, exposition, sabotage, accident or other casualty, act of God, any law, ordinance, rule, or regulation which becomes effective after the date of this Agreement, or any other cause beyond the reasonable control of either party, then the parties shall be released from performance under this Agreement. Both parties hereby waive any claim for damages or compensation for such delay or failure to perform, other than obligations incurred up to the date of such force majeure.
- i. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington, and venue for any action brought hereunder shall be in the Superior Court of Whitman County.
- j. Independent Capacity. The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees and agents of that party and shall not be considered for any purpose to be employees or agents of the other party.
- k. Public Records Act. The parties to this Agreement understand and acknowledge that Washington State University is an institution of higher education and agency of the state of Washington and, as such, is subject to the Public Records Act, RCW 42.56 et seq. If Washington State University receives a public records request for this Agreement and/or for documents or materials provided to it under this Agreement, generally such information will be a public record and must be disclosed to the public records requester. However, Washington State University agrees to endeavor to notify Sponsor if it receives such a public records request and the date it plans to release the records. If Sponsor fails to obtain a protective order from the applicable court prior to the time Washington State University releases the records, Sponsor gives Washington State University full authority to release the records on the date specified, and Sponsor understands that it has thereby given up all rights to challenge the disclosures in any forum.
- l. Waiver. A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing signed by an authorized representative of the party and attached to this Agreement.
- m. Entire Agreement. This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto.
- n. Notice. Notice to Washington State University shall be given at the address located in the footer of this Agreement. Notice to Sponsor shall be given at the contact information listed below. Notice shall be



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considered given immediately upon hand-delivery, or three days after deposit in U.S. mail service, postage prepaid, or upon successful confirmation of facsimile transmission.

5. SPONSOR'S CONTACT INFORMATION:

Print Name of Sponsor

Sponsor's Email Address

Sponsor's Mailing Address

Sponsor's Phone Number

Sponsor's FAX Number

6. SIGNATURE:

**Approving
On behalf of Sponsor:**

On Behalf of Washington State University:

Signature

Signature

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____