

LICENSE AGREEMENT

BETWEEN

Company Name

AND

CORNELL UNIVERSITY

FOR

DOCKET NO. D- 5062

**Non-exclusive License for
Certified Seed Production in United States**

'Upstate Abundance' (NY 150) Potato

This Agreement, entered into the first day of October, 2018 ("Effective Date"), by and between Cornell University ("CORNELL") represented by the Center for Technology Licensing at Cornell University having offices at 395 Pine Tree Road, Suite 310, Ithaca NY 14850 ("CTL"), and _____, having physical business offices at _____ ("LICENSEE"), hereinafter each individually "Party" and collectively "Parties". The Parties witnesseth that:

Whereas, Dr. Walter S. De Jong ("Breeder") developed the potato variety 'Upstate Abundance' (hereinafter, "Licensed Variety"), docketed at CTL as D-5062, as a faculty member of CORNELL; and

Whereas, CORNELL is the owner of all plant lines and their associated property rights developed by its faculty and CTL is the designated agent at CORNELL to manage licensing of all such plant lines and their associated property rights; and

Whereas, a United States Plant Variety Protection application has been filed for CORNELL on Licensed Variety, and foreign equivalents of said certificate will be filed or are pending; and

Whereas, CORNELL has designated the New York Seed Improvement Project ("NYSIP") to assist CTL in the management and licensing of certain plant lines developed by CORNELL; and

Whereas, LICENSEE desires the non-exclusive right to produce, market, and sell Certified Seed of Licensed Variety under the terms and conditions of this Agreement, and

Now therefore, the Parties agree as follows:

1. CORNELL owns all rights and title in the Licensed Variety, and the United States Plant Variety Protection application no. 201700299.
2. CORNELL hereby grants to LICENSEE a non-exclusive license to produce, label, and market Certified Seed of Licensed Variety in the US ("Territory"). Production of Certified Seed of Licensed Variety is restricted to LICENSEE or Licensee's contract growers who are contractually obligated under the terms and conditions of this Agreement.
3. "Certified Seed" shall be defined according the standards of the official seed certification agency having jurisdiction in the area of production.
4. All seed production of the Licensed Variety will be inspected according to the standards of NYSIP or another official seed certification agency having jurisdiction in the area of production, and all production of the Licensed Variety which is sold for seed must be approved as Certified Seed by an official seed certification agency and be labeled with a certified class seed tag or other indicia of official certification.

5. Unauthorized propagation of the Licensed Variety is prohibited. LICENSEE is prohibited from producing, labeling, marketing, or transferring seed of the Licensed Variety for propagation purposes to any third party without prior written permission of CTL. LICENSEE may transfer seed of the Licensed Variety to another holder of a valid license for the Licensed Variety only with prior written approval of CTL or its designee, NYSIP.
6. LICENSEE shall not market or sell seed of the Licensed Variety outside of the territory without prior written permission from CTL.
7. LICENSEE shall not import seed of the Licensed Variety into the US without prior written permission from CTL.
8. LICENSEE shall label all bags and containers of Certified Seed of the Licensed Variety with the words “Unauthorized Propagation Prohibited – U.S. Protected Variety – 1994 PVPA”.
9. All production of seed of the Licensed Variety that fails to meet Seed Certification Standards shall be used or marketed only for food or animal feed purposes, and no royalty shall be owed on such sales provided that, on an annual basis, the amount of seed sold for such purposes do not exceed 20% of the total production by LICENSEE.
10. LICENSEE shall pay to CTL a royalty of fifty cents per hundredweight (\$0.50/CWT) of seed sold.
11. All royalty-bearing sales of the Licensed Variety made by LICENSEE shall be reported and paid by September 30 for the Term of the agreement with respect to seed sales from the previous crop year (see Exhibit A for an example report). In the event royalty, reimbursement and/or fee payments are not received by CTL when due, LICENSEE shall pay to CTL interest charges at a rate of ten percent (10%) per year. Such interest shall be calculated from the date payment was due until actually received by CTL.
12. All payments shall be made as follows:

If sent by mail:

Center for Technology Licensing at Cornell University
PO Box 6899
Ithaca, NY 14851-6899

If remitted by electronic payments via ACH or Fed Wire:

Receiving bank name: Tompkins Trust Co.
Bank account no.: 0111000065
Bank routing (ABA) no.: 021302648
SWIFT code: TMPKUS33
Bank account name: Cornell University
Bank ACH format code: NA
Bank address: P.O. 460, Ithaca, NY 14850
Additional information: Reference D-5062
Agreement No.:

An email copy of the transaction receipt should be sent to ctl-contracts@cornell.edu. LICENSEE is responsible for all bank charges of wire transfer of funds for payments. The bank charges should not be deducted from total amount due to Cornell.

13. LICENSEE shall keep accurate records of all sales of the Licensed Variety, and agrees to provide to CTL and NYSIP or other designated agent, a report of all sales seed sold subject to this Agreement and for which royalties are payable. Said report shall accompany LICENSEE's royalty payment as described in Section 11 and sent to CTL no later than September 30 of each year of the Term. Upon request, LICENSEE shall make its books and records available for auditing by CTL or NYSIP or another designated agent for the purpose of verifying the amount of royalties due.

Licensee Contact Information:

Company Name: _____
Address: _____
Attention: _____
Tel: _____
Fax: _____
Email: _____

14. LICENSEE hereby consents to release of certification records by NYSIP or other certification agency to CTL for the purposes of verification of royalties due.
15. This Agreement expires the September 30th following the Effective Date "Term".
16. Upon expiration of this Agreement, Licensee's authorization to produce, label, and market Certified Seed of the Licensed Variety shall cease. However, any obligation of LICENSEE to pay CORNELL royalties or fees shall survive the expiration or termination of this Agreement.
17. If CTL or NYSIP determine that LICENSEE is in breach of any term or condition of this Agreement, CTL shall so notify LICENSEE in writing. Upon receipt of such notification, LICENSEE shall have thirty (30) days to cure said breach to the satisfaction of CTL.

18. LICENSEE shall defend and hold harmless CORNELL, CTL, the Cornell University Agricultural Experiment Station, NYSIP, their agents, officers, employees, and affiliates against any claim, proceeding, demand, liability or expenses related to: 1. Any action brought by a third party alleging infringement of a domestic or foreign patent as a result of the activities of the LICENSEE and contract growers; 2. Injury to persons or property, or against any other claim, expense or liability of any kind resulting from the production, sale, use, lease, consumption or advertisement of the Licensed Variety.
19. CORNELL warrants that it is the owner of the Licensed Variety and has the right to enter into this Agreement. CORNELL makes no other warranties of any kind, either express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, neither does CORNELL assume any obligations with respect to infringement of intellectual property rights or other rights of third parties due to Licensee's activities under this agreement.

By signing and dating below, the Parties have executed this Agreement and hereby agree to the terms and conditions contained herein.

COMPANY: _____

CORNELL UNIVERSITY:

By: _____
[Authorized Signature]

By: _____
[Authorized Signature]

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____



ROYALTY REPORT PLANTS/SEED

Company Name:	CTL Agreement No.:	Your Reference No.:
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Reporting Period (mm/dd/yyyy)

From / / **Through** / / _____

		Sales Inside New York State					Sales Outside of New York State					Annual Sales		
		(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)					
Licensed Line/Variety CTL Docket No./Contract No.	Do you wish to continue licensing this material? Y/N*	# Plant Units Sold if applicable	Sale Price Per Unit	Seed Sales (\$) if applicable	Royalty Rate	Total (\$) Royalty Due (AxC) and/or (BxC)	# Plant Units Sold if applicable	Sale Price Per Unit	Seed Sales (\$) if applicable	Royalty Rate	Total (\$) Royalty Due (ExG) and/or (FxG)	Total Plant Units Sold (A+E)	Total Seed Sales (B+F)	Total Due for this Line/Variety (D+H)
OTHER VARIETIES/DOCKETS:														

Total Payment Enclosed:

* If you answer No, a Termination Notice will follow within a few weeks of receipt of this report.

During this time have any of the following occurred:	Description (Additional attachments may be included, if space is limited):
Type(s) and number(s) of Derived Varieties developed, discovered or isolated during the applicable License Year	
Sublicenses granted and the name and address of each Sublicensee. Please submit copies of sublicenses, if required in agreement.	
Register of trees planted of the Licensed Variety, including the address and owner of orchards in which the trees were planted, number and types of trees planted, and total hectares planted	
Detailed description of progress in growing and commercializing the Licensed Product	
Research and development results and expenditures related to the Licensed Variety and Licensed Products in the applicable License Year	
Countries in which Licensee has one or more pending or granted registrations on National List(s) for commercial activities with respect to Licensed Products	
Detailed description of the promotion and marketing efforts made to maximize sales of Licensed Products in the Territory during the applicable License Year	
Issues encountered in commercializing the Licensed Products	

Report Prepared & Approved By:	
Name (Please Print)	Email
Signature	Date (mm/dd/yyyy) _____/_____/_____

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