Instructions for Completing the Hybrid Parental Use Agreement

1. Complete two copies of the Agreement. Requests for more than one line can be listed on the same form.

2. Sign both copies.

3. Send both signed copies to

<table>
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<tr>
<th>Address for US Postal Service</th>
<th>OR</th>
<th>Address for FedEx or Other Carrier</th>
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<tbody>
<tr>
<td>Office of Technology Transfer</td>
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<td>Office of Technology Transfer</td>
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<tr>
<td>Campus Box 8210</td>
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<td>North Carolina State University</td>
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<td>North Carolina State University</td>
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<td>Corporate Research I</td>
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<tr>
<td>Raleigh, NC 27695-8210</td>
<td></td>
<td>1021 Main Campus Drive</td>
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<td>Raleigh, NC 27606</td>
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</tbody>
</table>

4. For additional information on the Agreement

   Phone: 919.515.7199
   Fax: 919.515.3773

5. For additional information about the tomato seed, contact Dr. Dilip Panthee or Dr. Randy Gardner:

   Mountain Horticultural Crops Research and Extension Center
   455 Research Drive
   Mills River, NC 28759
   Phone: 828.684.3562
   Fax: 828.684.8715
   Email: dilip_panthee@ncsu.edu
   Email: randy_gardner@ncsu.edu
F1 HYBRID PARENTAL USE AGREEMENT
NC _______________ Tomato Breeding Line

Between:

Company: ________________________________
Street/PO Box: ________________________________
City, State, Zip: ________________________________
Contact Name: ________________________________
Contact Email: ________________________________
Phone: ________________________________
Fax: ________________________________

North Carolina State University
Office of Technology Transfer
Campus Box 8210
Raleigh, NC 27606
Phone: 919.515.7199
Fax: 919.515.3773

NORTH CAROLINA STATE UNIVERSITY, ("NCSU"), grants to ________________, ("Company"), an exclusive license for use of NC _______________ as a parental line in production of the F1 hybrid _______________.

TERMS OF AGREEMENT:

A. The Company:

1. Will increase and maintain seed of NC _______________ used in the production of _______________.

2. Must insure that seed, plant parts, or fruit of NC _______________ are not distributed to any third party without written authorization from NCSU.

3. May not use NC _______________ or any related information pertaining to this line to seek or obtain patent protection or plant variety rights or any other intellectual property protection for this genotype, or F1 hybrids with this genotype, either within the United States of America or any country outside the United States of America, nor may the Company allow any third party to do so.

4. Will pay a royalty of 5% of the total seed sales of F1 hybrid tomato _______________. The royalty will be paid annually by January 31 for all seed sales for the previous calendar year. Payment must be made to the North Carolina Foundation Seed Producers, Inc. (NCFSPI).

5. Must make available to NCSU upon request and during reasonable business hours its records on production and sales of hybrid tomato seed of _______________.

6. Understands and agrees that any additional F1 hybrids using NC _______________ as a parent will require a separate agreement from NCSU for commercial seed production and sales for each hybrid.
B. NCSU:

1. Grants to the Company an exclusive license for the use of NC ___________ as a parental line for seed production of _________________.

2. Releases NC _________________ to all legitimate commercial entities who negotiate written agreements with NCSU to use it for development, seed production, and sales of approved F₁ hybrid combinations.

3. Will, to the extent reasonably possible, maintain the confidentiality of information that is 1) reduced to writing and marked by the Company as the Company's proprietary and confidential information and 2) which pertains to the use of NC ____________ as a parental line and seed sales for hybrid tomato ___________. NCSU's confidentiality obligations, as set forth in this paragraph 3, do not apply to any information, knowledge, data and/or know-how which is:
   
   (a) already known to the receiving party at the time of the disclosure;
   (b) publicly known without the wrongful act or breach of this agreement by the receiving party;
   (c) rightfully received by the receiving party from a third party on a non-confidential basis;
   (d) subsequently and independently developed by employees of the receiving party who had no knowledge of the INFORMATION by written records;
   (e) approved for release by written authorization of the disclosing party;
   (f) required to be disclosed by law, e.g., the NC Public Records Act (GS Chapter 132), or judicial action.

C. Conditions:

1. This Agreement is effective as of ___________, and remains in effect for a period of five (5) years, unless earlier terminated under items C-2 or C-3 below.

2. The Company may terminate this Agreement at any time on thirty (30) days written notice to NCSU. Upon termination under this provision, the Company must stop seed production and must pay royalties on all seed sold and all seed on hand at the termination date.

3. If the Company materially breaches any of its obligations under this Agreement, NCSU may terminate this Agreement immediately upon giving written notice to the Company.

4. The terms and conditions as set forth have been read carefully before execution. This Agreement shall be executed in duplicate, but shall not be binding on either party until signed and accepted by both parties.

5. This Agreement is governed by and must be interpreted in accordance with North Carolina Law, without reference to its conflict of laws provisions. All litigation arising out of this Agreement, its interpretation or performance must be in Wake County Superior Court or in the US District Court for the Eastern District of NC, and the parties consent to the jurisdiction of those courts.
AGREEMENT APPROVAL:

FOR:  ________________________________  COOPERATING TOMATO BREEDER

BY:  ________________________________

TITLE:  ________________________________

DATE:  ________________________________

FOR  NORTH CAROLINA STATE UNIVERSITY
OFFICE OF TECHNOLOGY TRANSFER  FOR:  THE NORTH CAROLINA AGRICULTURAL
RESEARCH SERVICE

BY:  ________________________________  BY:  ________________________________

TITLE:  ________________________________  TITLE:  ________________________________

DATE:  ________________________________  DATE:  ________________________________

CONCURRED BY:

THE NORTH CAROLINA FOUNDATION
SEED PRODUCERS, INC.

BY:  ________________________________

TITLE:  ________________________________

DATE:  ________________________________