

## The New York Botanical Garden - Agreement for Distribution of Plant Material

The New York Botanical Garden (“NYBG”) distributes Plant Material (as defined below) to other institutions and individuals throughout the world. This material is supplied for many purposes including scientific research, conservation, education, horticulture, display, photography, and illustration. Material is supplied on the condition that it is used exclusively for the purpose or purposes stated at the time of distribution.

The undersigned (the “Recipient”) in consideration of the receipt of plant material hereby agrees to the following terms and conditions:

1. “Plant Material” means any living plant material including, without limitation, any plants, propagation material, seeds, cuttings, roots, bulbs, corms, leaves, germplasm or any other plant parts.
2. Plant Material is supplied solely for the purpose or purposes listed below. Plant Material is supplied as-is and NYBG specifically hereby disclaims all representations and warranties regarding the nature, purity, usefulness, viability or safety of the Plant Material.
3. The recipient shall not commercialize or make any other use of Plant Materials (including without limitation, products or research derived from germplasm) other than as expressly set forth herein without the prior written consent of NYBG, which consent may be withheld or conditioned in the sole discretion of NYBG. Such commercialization or other use will be subject to a separate agreement.
4. Recipient shall not share Plant Material with any third party for commercialization or any other purpose without the prior written consent of NYBG.
5. Any publication resulting from the use of Plant Material must acknowledge The New York Botanical Garden as supplier. Recipients must notify the NYBG of when and where these publications have resulted.
6. Recipient shall maintain organized and thorough records and documents relating to its use of the Plant Material and shall make such records and documents available to NYBG upon request.
7. This Agreement is made under, and shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements made and to be performed solely therein. The parties hereto hereby consent to the exclusive personal jurisdiction and venue of any state or federal court located within the City of New York and waive any objection to jurisdiction and venue of any action instituted hereunder and agree not to assert any defense based on lack of jurisdiction or venue.
8. Recipient agrees that the remedy at law for a breach of obligations under this Agreement may be inadequate and that in addition to legal remedies permitted hereunder, NYBG is entitled to specifically enforce the terms hereof, including, without limitation, by obtaining an injunction or any other equitable remedy in the event of a breach or threatened breach of this Agreement by any person. Recipient agrees not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to law or inequitable for any reason, nor to assert that a remedy of monetary damages would provide an adequate remedy.
9. The existence, terms and status of this Agreement are confidential and Recipient shall not disclose such information to any third party without the prior written consent of NYBG.
10. Recipient cannot assign any of its rights or obligations under this Agreement without the prior written consent of NYBG.



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**Additional Information/Notes:**

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