



(12-2-02)

OREGON STATE
UNIVERSITY

Summary of Conditions and Licensing Terms for OSU CLEARFIELD* Wheat Varieties

Oregon State University Goals

1. Ensure that CLEARFIELD* varieties and technologies are available and accessible by Oregon growers at a reasonable cost.
2. Develop a commercialization and licensing approach that can effectively manage intellectual property rights and stewardship requirements of CLEARFIELD* technologies and BASF and that is usable for other value-added technologies and public-private partnerships.
3. Recoup costs of licensing, PVP, stewardship, and enforcement to ensure viability of the OSU Technology Transfer program.
4. Maintain viability of Oregon's public cereal breeding programs and involve the Oregon wheat industry in decision-making processes, as appropriate and possible.

General conditions and terms

1. OSU CLEARFIELD* varieties will be released under non-exclusive licenses that grant permission to eligible seed dealers to produce, sell, and promote seed of the variety. License applicants will be approved as 'Seed Associates' based on their ability to meet minimum conditions and performance requirements established by OSU and BASF, and their commitment to pay license and royalty fees.
2. Seed dealers interested in a license must submit application with supporting information and \$100 application fee to OSU Office of Technology Transfer. Upon approval, the Seed Associate will pay a one-time license fee of \$2,000. An annual license renewal of \$100 will be charged. A royalty of \$0.02 per pound will be collected on sale of all Certified seed. A royalty will not be assessed on sales of Foundation or Registered seed stocks.
3. Fees and royalties will be used to offset OSU costs of licensing, stewardship, Plant Variety Protection (PVP), enforcement of PVP and licenses, and provide some funds for research and technology development.
4. Varieties will be protected under title 5 of the Plant Variety Protection Act. Foundation and Registered seed stocks may be sold only to those granted licenses by OSU. Furthermore, all seed sales to growers are to be of Certified seed class. Certified seed may be used to plant a single commercial crop and may not be used to generate seed stocks for replanting. Seed stocks that fail to meet certification standards cannot be sold as seed, nor used as seed.

OSU Seed Associates - Criteria and Performance Requirements

1. An OSU Seed Associate must have produced and sold a certified generation of cereal seed in each of the last three years, is in good standing with state certification agencies, and has not been convicted of any state or federal seed law violations. Seed Associate must carry general liability insurance(s) in the combined amount of \$1 million per occurrence against any claims, demands, or causes of action or damages that may be related to seed production, sales, or marketing of the licensed variety.
2. Seed Associate must be capable, willing, and able to electronically report of sales and inventories through the internet to the BASF-sponsored database. Seed sales must be reported within 14 days of effective date of sale. Failure to meet reporting deadlines may result in termination of the license.
3. Seed Associate has signed and is willing to support BASF CLEARFIELD* Wheat Stewardship Grower Agreement. Seed Associate will be able to explain conditions and purpose of the BASF

Stewardship Agreement and, prior to any seed sale, Seed Associate will confirm grower's signature of the Agreement.

4. Seed is to be produced, conditioned, and stored according to applicable rules, regulations, and requirements of state seed certification agencies. Beyond™ herbicide will be applied to all seed production fields. A minimum of 95% of seed must be rated as herbicide tolerant for each seed lot, based on tests by a BASF approved laboratory, to be sold as a class of certified seed. Seed Associate is responsible for cost of the laboratory test.

5. Seed stocks which cannot be sold as a certified class of seed must either be sold into commercial grain channels or destroyed. Documentation of disposition must be provided.

6. Seed Associate shall use due diligence and all reasonable efforts to support the enforcement of PVP, licenses, applicable patents, and BASF Grower Stewardship Agreement by reporting violations to BASF, OSU, or the appropriate state regulatory agency.

Growers - Criteria and Stewardship Requirements

1. Growers must read, understand, sign, and abide by the BASF Grower Stewardship Agreement before seed of CLEARFIELD varieties or Beyond™ herbicide can be purchased.

2. Growers must use and purchase Certified seed from an approved Seed Associate. Certified seed may be used to plant a single commercial crop and *may not* be used to generate additional seed stocks for replanting (i.e., there is no allowance for bin-run, brown bag, or grower-saved seed).

3. Growers are encouraged to follow BASF stewardship recommendations regarding crop rotation, management of fallow weed pressure, use of herbicides with different modes of action, apply herbicide over entire fields for jointed goatgrass control, and limit reliance over-years on ASL-inhibiting herbicides.

Verification, Enforcement, and Penalties

1. Seed and herbicide sales will be monitored through the BASF database to verify grower compliance with PVP and the BASF Grower Stewardship Agreement.

2. OSU will enforce terms of Plant Variety Protection, title 5, and terms of license agreements.

3. BASF will enforce its patent rights for use and access to CLEARFIELD* technologies. Per terms of the BASF Grower Stewardship Agreement, grower agrees to pay damages, including liquidated damages of \$100 per acre, for the acres of any unauthorized seed in violation.

4. Seed Associate will support and assist in enforcement of PVP, applicable patents, and the BASF grower agreement by reporting violations to BASF, OSU, or the appropriate state regulatory agency.

Timelines

1. 'ORCF-101' is a CLEARFIELD* soft white winter wheat currently proposed for release by OSU. ORCF-101 was tested in the 2002 Statewide Variety Trials and is derived from the cross 'CV-9804'/'Malcolm'/'Stephens'/'Madsen'. ORCF-101 has performed similarly to Madsen for grain yield, adaptation, and end-use quality.

2. We anticipate 4,500 to 5,000 bushels of Foundation Seed of ORCF-101 will be available in August of 2003, based on 50 acres currently under Foundation seed increase.

3. OSU will announce and solicit applications for seed licenses in spring of 2003. Appropriate documentation will be required to warrant that the applicant can meet all eligibility and performance criteria. Licenses will be executed prior to availability of seed in August, 2003. Stewardship training will be provided to Seed Associates during the summer.

4. Certified seed of ORCF-101 will be widely available to growers in fall, 2005. Limited quantities of Certified seed may be available for commercial plantings in fall, 2004.