



BLACK STEM RUST COMPLIANCE AGREEMENT

1. NAME OF ESTABLISHMENT: Willoway Nurseries, Inc.
2. ADDRESS: 4534 Center Road
3. CITY, STATE, ZIP: Avon, Ohio 44011
4. GROWING LOCATION: Erie and Lorain County Farms
5. PHONE: 440-934-4435 EMAIL: tdemaline@wwninc.com
6. REGULATED ARTICLES: **Berberis, Mahonia, Mahoberberis**
7. APPLICABLE QUARANTINE: **Black Stem Rust Quarantine #38**
8. AGREEMENT: Willoway Nurseries, Inc. agrees to process and move regulated articles in accordance with the provisions of the above quarantine; to use certificates in accordance with the instructions; to maintain and offer for inspection such records as may be required; to carry out all additional conditions, treatments, precautions and sanitary measures which may be required by the inspector, and to meet the stipulations below:
 - a) To obtain, propagate and offer for sale only those species and varieties of *Berberis*, *Mahonia*, and *Mahoberberis* designated by the Deputy Administrator, Plant Protection and Quarantine Programs, United States Department of Agriculture as resistant to Black Stem Rust. See attached list of approved plants.
 - b) If seed of rust-resistant *Berberis* is planted, the sale of these plants should be restricted to those plants with at least two seasons' growth.
 - c) If seed of rust-resistant *Mahonia* is planted, the sale of these plants should be restricted to those plants with at least one season growth.
 - d) Cuttings of *Berberis*, *Mahoberberis*, and *Mahonia* may only be taken from rust- resistant parent plants that are determined to be true to type by an authorized inspector. Such cuttings will be eligible for movement when accompanied by a certificate.
 - e) If seedlings or cuttings of *Berberis*, *Mahoberberis*, and *Mahonia* are received from other sources:
 - i. Such seedlings of *Berberis* will be held until they have gone through at least two growing seasons.
 - ii. Such seedlings of *Mahoberberis* and *Mahonia* will be held until they have gone through at least one growing season.
 - iii. Such seedlings and cuttings will be kept separate from plants eligible for movement.



- f) When plants belonging to the genera *Berberis*, *Mahoberberis*, and *Mahonia* are grown either: (1) in protected states or (2) in other states with the intentions of being certified for shipment into or through protected states or other areas, the seed from which these plants are grown must meet certain conditions. In addition to being seed of a rust-resistant species listed in 301.38-2 (See attached list), the seed must be produced at properties where a state inspector has verified that no wild or domesticated rust-susceptible plants are growing at or within ½ mile of the property. This will ensure that seed used to produce plants in protected areas or plants which are to be certified for shipment into or through protected state does not contain hybrid crosses involving rust-susceptible varieties. Shipments of rust-resistant seed of these genera must be accompanied by certificates.
 - i. Protected areas are the state of : Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, West Virginia, Wisconsin, Wyoming, and the following counties of the state of Washington: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant Kittitas, Klickitat, Lincoln, Okanogan, Pen Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.
 - g) Attach certificate to the outside of container of all shipments of *Berberis*, *Mahoberberis*, and *Mahonia* plants and seeds. Attach to a plant, if no container is used, so it is readily observable. For shipments by truck, the certificate should be attached to the copy of the shipping documents which are surrendered at destinations to the consignee.
 - h) To provide the inspector information as to source of *Berberis*, *Mahoberberis*, and *Mahonia* plants and seed that were purchased during the year, including plants purchased to fill orders.
 - i) To keep in a safe place protected from loss, theft, or misuse all certificates issued by Plant Protection and Quarantine.
9. **Term:** This Agreement is subject to Section 126.07 of the Ohio Revised Code. Should the Ohio General Assembly fail to appropriate funds for the inspections set forth in this Agreement, this Agreement is automatically terminated. This Agreement may be terminated at any time by ODA for any violation of the terms of this Agreement, or upon thirty (30) days' notice by either party for any reason. This Agreement becomes effective upon signature and will remain in effect until December 31, 2024 unless earlier terminated for the reasons previously set forth.
 10. **Amendment:** This Agreement shall only be modified or amended by an instrument signed in writing by each party to this Agreement. Any certificates issued by ODA for use by the Establishment named herein remains the property of ODA and may not be distributed for use by any other entity, and must be returned upon request of an ODA inspector or any other authorized representative of the Director. A violation of this Agreement may constitute a violation of the Ohio Revised Code Chapter 927 and may be criminally prosecuted pursuant to Ohio Revised Code Section 927.99.
 11. **Disclaimer:** In no event will ODA, its officers, directors, employees, or agents be liable to any other party to the Agreement or third party for any damages, losses, expenses, costs, or fees incurred by any party under, arising out of, or related to this Agreement, or indirect, exemplary, punitive, special, or consequential damages arising out of or related to this Agreement. ODA does not guarantee, warranty, or otherwise promise that any of the regulated articles are free from disease or insects or

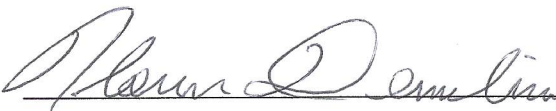
are fit for any purpose intended. The Establishment shall indemnify and hold harmless the ODA in the event of any claims for losses, fees, costs, or damages of any kind in relation to or arising out of this Agreement which are associated with the Establishment's acts or omissions.

12. **Miscellaneous:** This Agreement shall be governed by the laws of Ohio. In the event of conflict between this Agreement and applicable laws, regulations, or orders of any competent authority having jurisdiction or in the event of any conflict between such applicable laws or regulations or orders, the most stringent or legally binding requirement shall govern and be considered as a part of this Agreement. This Agreement constitutes the entire agreement between the parties relating to its subject matter and supersedes all prior or contemporaneous negotiations or agreements, whether oral or written, relating to the subject matter hereof. This Agreement shall not be assigned without prior written consent of the other party. No term or provision of this Agreement shall be deemed waived and no breach excused unless the waiver of consent is in writing and signed by both parties to this Agreement. This Agreement shall bind the parties hereto, their respective assigns, successors, receivers, and legal representatives of any type whatsoever. If any provision of the Agreement shall be invalid, illegal, or unenforceable, in any respect, said provision shall be severed. The validity, legality, and enforceability of all other provisions of this Agreement shall not in any way be affected or impaired unless such severance would cause this Agreement to fail of its essential purpose. This Agreement may be executed in any number of counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument. A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature.

THE ESTABLISHMENT

THOMAS DEMACUS
Printed Name of Authorized Individual

Title: PRESIDENT

SIGNATURE:  DATE: 12-8-23

OHIO DEPARTMENT OF AGRICULTURE

State Agency Official: Fred Meyer Date: December 7, 2023

USDA, APHIS, PPQ

Federal Agency Official

Date:

Compliance Agreement Number: BSR2024-LOR10974 Issue Date: December 8, 2023

Payment Included: _____ Please Bill: \$40.00