



Grower ID# \_\_\_\_\_  
(For Internal Use)

## MEMBER MARKETING CONTRACT

THIS CONTRACT is entered into by and between **Wilco Farmers**, an Oregon cooperative corporation (“**Wilco**”), and its undersigned member (“**Member**”).

In consideration of the mutual covenants and conditions set forth in this Contract, it is agreed as follows:

**1. Term.** The term of this Contract shall be for an initial term of one (1) crop year and shall automatically be renewed for successive terms of one (1) crop year unless terminated by either party as provided in this Contract. For purposes of this Contract, a crop year shall end the last day in February each year. The first crop year of this Contract shall end on the first February 28 following the execution of this Contract by Wilco and the Member. Subsequent crop years shall expire on the last day in February of each subsequent year.

**2. Classification.** The board of directors of Wilco (the “Board”) may classify members by location, volume of production, quality of production, or any combination of these and other factors. The Board, in order to more efficiently manage the delivery of hazelnuts, may on one or more occasions divide the current membership in each classification into three groups, designated as group 1, 2 or 3. A Member’s group designation, if any, is reflected on the signature page.

**3. Delivery of Hazelnuts.** Wilco operates its hazelnut operations by and through a wholly owned subsidiary, Wilco Hazelnut, LLC (“W-H, LLC”). Except as provided below for a new member, Member shall deliver to W-H, LLC, for processing and marketing, all hazelnuts produced by Member on the Schedule A acreage during the term of this Contract except: (a) hazelnuts retained for personal use and not for sale; (b) hazelnuts produced from acreage the member controls and the production from which has been rejected by the Board pursuant to its Bylaws, policies or rules adopted by the Board with respect to the hazelnut business; and (c) hazelnuts constituting a de minimus amount of a Member’s crop for that year, produced and sold by the Member from farmside stands to individuals for their personal consumption.

**4. Time and Place of Delivery.** Taking into account the hazelnut pool to which Member’s hazelnuts are assigned, W-H, LLC may designate the time, place, manner and quantity of delivery of hazelnuts to the W-H, LLC facilities or to any other receiving point designated by W-H, LLC in order to efficiently receive, process and/or pack and market the hazelnuts of all patrons. All products to be handled and marketed by W-H, LLC shall be delivered in such proper merchantable condition as from time to time may be prescribed.



Grower ID# \_\_\_\_\_  
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The Board may establish rules to allow for a release of Member from the future obligation to market hazelnuts produced on real property as to which the Member surrenders actual control of production by a bona fide sale or lease, provided the Member notifies the Board as to any sale or lease in advance of or within thirty (30) days after entering into such sale or lease and furnishes evidence satisfactory to the Board of a bona fide transaction which is not intended to evade the obligation of this Contract. Except as so released, a Member shall continue to be bound by this Contract notwithstanding any such sale or lease.

**5. New Member Deliveries.** If Member is a new member of Wilco and enters into this Contract for the first time, Member may elect to have each hazelnut delivery split between a member and a non-member patronage.

That portion of Member's hazelnut deliveries that is allocated to non-member patronage will not be included in determining payment, voting power, or any other rights involved with membership.

**6. Right of Possession.** This Contract is intended to pass to and vest in Wilco, and/or W-H, LLC, the right of possession to all hazelnuts of Member subject to this Contract. Wilco, and/or W-H, LLC, shall at all times have the right to enter upon the real property on which such hazelnuts are produced or stored and remove such hazelnuts therefrom on behalf of Member; but the right to enter and remove such hazelnuts shall not affect the obligation of Member to deliver the same as required by this Contract, or the Member's risk of loss prior to delivery.

**7. Processing and Marketing.** W-H, LLC hereby agrees that, subject to the product standards established pursuant to Section 9 of this Contract, it shall accept those hazelnuts Member is obligated to deliver to Wilco pursuant to Section 3 of this Contract and shall process and market hazelnuts delivered by Member together with hazelnuts delivered by other members or otherwise acquired from non-members, in such manner and at such prices as management of W-H, LLC, in its sole discretion, deems in the best interest of all members. Member authorizes W-H, LLC to mix or combine Member's hazelnuts with hazelnuts delivered by other members or otherwise acquired by W-H, LLC and to classify and/or pool hazelnuts by size, quality, variety, time of delivery, or other standards as the Board may establish from time to time, as contemplated by and consistent with the Restated Bylaws. The Board is hereby given full power to amend or modify, from time to time, said classifications or pools, to establish additional pools, to determine in which pool any hazelnuts shall be included, and to adopt and amend rules and policies with respect to such pools.

**8. Designating Marketing Agent.** Member designates and appoints W-H, LLC, and/or any subsidiary, as Member's agent in all matters concerning the marketing of hazelnuts, with full power and authority to conduct its marketing activities in such manner as it, in its sole discretion, determines to be for the best interests of the membership. Member shall not exercise



Grower ID# \_\_\_\_\_  
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any control over any phase of the marketing of said hazelnuts except by exercise of voting power as a member of Wilco and through the duly elected Board and Hazelnut Committee. Member shall not be directly liable under any rules of agency on account of any contract or contracts made by W-H, LLC in the conduct of its business. As marketing agent for Member, W-H, LLC may, among other things, sell such hazelnuts or the products produced therefrom, pledge or otherwise hypothecate the same or any part thereof, transfer title thereto or a security interest therein and collect the proceeds, all in its own name exclusively, or in the name of any subagent.

**9. Product Standards.** In order to maintain the highest level of product quality and consistency, all products to be handled and/or marketed by W-H, LLC for its patrons must comply with accepted hazelnut industry standards of quality, grade and condition. The determination by the management of W-H, LLC of grade, condition or quality shall be conclusive. The Board, as contemplated by and consistent with the Restated Bylaws, from time to time may establish and revise the rules, guidelines and policies by which Member and W-H, LLC shall be governed with respect to the quality of products, handling, processing, packing and shipping, protection against disease, damage, or deterioration, and the installation and maintenance of equipment utilized for any such purposes, and the grading standards of quality and classification of any and all products delivered to and handled by W-H, LLC.

**10. Product Inspection and Approval.** Member authorizes Wilco, W-H, LLC, and their agents to enter onto the real property where the hazelnuts under this Contract are to be grown, at reasonable times and intervals, for the purpose of inspecting such crops. Any products received by W-H, LLC that are not of the applicable grade, quality or condition prescribed, or which W-H, LLC finds have not been produced, handled, processed, or shipped in accordance with the applicable rules, guidelines and policies adopted by W-H, LLC or applicable laws or regulations, may be rejected as unsuitable for marketing, or may be regraded, reprocessed or conditioned by W-H, LLC at Member's expense; or, by mutual agreement, may be handled by W-H, LLC at Member's sole risk and expense.

**11. Reports to Cooperative.** From time to time as may be requested by management of W-H, LLC, Member shall provide W-H, LLC such information concerning the Member's production or prospective production of hazelnuts for a given crop year.

**12. Payment of Proceeds.** Consistent with the patronage provisions set forth in the Restated Bylaws of Wilco, Wilco shall pay to Member Member's share of the net proceeds of the sales of all hazelnuts on the basis of the quantity or value or both of hazelnuts delivered by Member, taking into account the hazelnut pool to which Member's hazelnuts are assigned. Net proceeds shall be determined by deducting from the gross proceeds received from the sale of all hazelnuts delivered by all patrons the expenses of receiving, packing, processing, marketing and otherwise handling such hazelnuts, taking into account the hazelnut pool to which Member's hazelnuts are assigned. Expenses shall include, but not be limited to, all general and administrative expenses, losses (unless the Board shall otherwise determine as hereafter



Grower ID# \_\_\_\_\_  
(For Internal Use)

provided), allowance for depreciation on property and bad debts, and any interest on funds used by W-H, LLC. Wilco may retain amounts from such net proceeds to provide capital for the operation of W-H, LLC as contributions to the revolving fund or funds and as reasonable unallocated reserves consistent with the Restated Bylaws and policies adopted by the Board with respect to all members of Wilco.

**13. Advances.** To the extent permitted under the Restated Bylaws and applicable state laws, Wilco may make advances against the net proceeds payable to Member at such times and in such amounts as the Board may determine. In the event that the amount of advances exceeds the amount of net proceeds determined to be payable to Member, Member agrees to repay the amount of such deficiency on demand. All such advances shall be secured as provided in this Contract.

**14. Member Breach of the Contract.** Member shall be in breach of the Contract if (a) Member fails to sell and deliver to Wilco any of the hazelnuts covered by this Contract; or (b) Member delivers hazelnuts not produced by Member while this Contract is in effect. Such acts will cause damage to Wilco and its members in an amount that is, and will be, impractical and extremely difficult to determine. Accordingly, in the event of such breach, Member agrees to pay to Wilco upon demand, an amount equal to 50 percent of the market value of all hazelnuts withheld, delivered, sold or otherwise disposed of in breach of the terms of this Contract. The foregoing right to recover liquidated damages shall be in addition to all other remedies now or hereafter available by law, including, but not limited to, the right to obtain an injunction, and said remedies shall be deemed cumulative and not exclusive.

**15. Termination.**

(a) **By Member.** Member may elect to terminate this Contract effective as of the last day of the then current term of the Contract (the “Termination Year”), by delivery of written notice to the principal office of Wilco prior to January 1 of the Termination Year.

(b) **By Wilco.** Wilco may terminate this Contract simultaneously with any termination of membership pursuant to the Wilco Articles of Incorporation and Bylaws, as amended from time to time, or at a time when Wilco elects to terminate all existing member marketing contracts with all members due to termination, sale or other disposition of Wilco’s hazelnut business or upon dissolution of Wilco.

**16. Incorporation of Organizational Documents.** This Contract is subject to and Member agrees to abide by the Restated Articles of Incorporation and Restated Bylaws of Wilco, its policies, procedures, rules and regulations now in effect or hereafter duly adopted or amended, including but not limited to those governing harvesting, handling, packing, inspection and shipment of product deliverable under this Contract (collectively referred to as the “Hazelnut



Grower ID# \_\_\_\_\_  
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Marketing Rules”). The Hazelnut Marketing Rules are hereby incorporated in to this Contract by this reference.

**17. Notice.** In the event of delivery by mail, the written notice of termination of this Contract shall be sent by registered or certified mail, return receipt requested. Written notice is deemed delivered only upon actual receipt thereof by Wilco at its principal office.

**18. Assignment.** This Contract is not assignable. Upon the death of Member, the Contract will be binding upon the decedent’s estate, personal representative, and heirs as to, and only as to, any planting of contract product in being at the time of Member’s death. The Contract is transferrable only to another Member of Wilco, for no longer than the crop year covering this Contract, with the express permission of Wilco. Such transfer cannot exceed the acreage under this Contract and does not constitute an ongoing contract transfer arrangement. This Contract is personal to Member. Member shall neither fulfill Member’s crop production obligation from the crop production of another, nor assign Member’s crop production obligation to another. If this Contract is with a corporation, partnership, or LLC, the Contract also binds their Wilco associate member(s).

**19. Entire Contract.** There are no oral or other conditions, promises, covenants, representations or inducements in addition to or at variance with any of the terms hereof and this Contract represents the voluntary and clear understanding of both parties, fully and completely.

**20. Attorneys’ Fees.** In case suit or action is brought by either party for any violation of this Contract, the prevailing party shall be awarded, in addition to all court costs, all expenses arising out of or caused by the litigation, and a reasonable attorneys’ fee whether incurred in mediation, in arbitration, at trial, on appeal, or in any bankruptcy or similar action, to be fixed by the tribunal, and any judgment or decree obtained shall include such items.

**21. Security Interest, Setoff, Liens, and Encumbrances.**

(a) All payments to be made to Member or any other party on account of Member’s delivery of hazelnuts under this Contract shall be subject to Wilco’s right to deduct and setoff any amounts owed by Member to Wilco, including without limitation, on account of any advances, or production inputs or agronomy supplies received by Member from Wilco.

(b) Member agrees to personally notify Wilco of any and all liens against the hazelnuts grown under this Contract. Member must furnish updated lien information as changes occur regardless of notification to Wilco from the lienholder(s) of such liens.

**22. Amendment.** Any modification or amendment made in Wilco’s uniform marketing contracts with other members, or substitution of any new form of such contracts with other members, shall not affect this Contract, but Member shall be given the opportunity to



Grower ID# \_\_\_\_\_  
(For Internal Use)

amend this Contract by executing any such new or amended uniform marketing contract. This Contract may not otherwise be amended, altered or modified without the mutual written agreement of both parties.

EXECUTED in duplicate original effective the day and year written below.

**WILCO FARMERS**

**MEMBER**

Effective Date:

\_\_\_\_\_  
Name of Member Applicant

\_\_\_\_\_  
Authorized Officer Signature

\_\_\_\_\_  
Authorized Officer Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

# Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<p><b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> <hr/> <p><b>2</b> Business name/disregarded entity name, if different from above</p> <hr/> <p><b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC      <input type="checkbox"/> C Corporation      <input type="checkbox"/> S Corporation      <input type="checkbox"/> Partnership      <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p><b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p>	<p><b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p>
	<p><b>5</b> Address (number, street, and apt. or suite no.) See instructions.</p> <hr/> <p><b>6</b> City, state, and ZIP code</p> <hr/> <p><b>7</b> List account number(s) here (optional)</p>	<p>Requester's name and address (optional)</p> <p><b>HAZELNUT GROWERS OF OREGON</b> <b>PO BOX 258</b> <b>MT. ANGEL, OR 97362</b></p>

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number</b>											
				-			-				
<b>or</b>											
<b>Employer identification number</b>											
				-							

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

