

**AGREEMENT ON ADDITIONAL TERMS AND CONDITIONS OF SALE
- WATERMELON AND MELON SEEDS AND PLANTS**

NOTICE: This is a legal agreement between Grower (as defined below) and Nunhems USA, Inc. ("Nunhems")

This Agreement (as defined below) includes the first three pages of the Agreement ("**Cover Document**") as well as the following two documents:

- A. Notice and Special Limitation of Warranty: Triploid Hybrid Watermelon Seed
and
- B. Additional Terms and Conditions of Sale –Watermelon and Melon Seeds and Plants

Please read this entire Agreement . If the terms are not acceptable, do not sign this Agreement. If you do not understand any of the terms of this Agreement, please consult an attorney. No watermelon or melon seeds or plants will be delivered to Buyer without Nunhems receiving an executed copy of this Agreement.

By my signature and initials below:

1. I acknowledge that have received, read, and understood this Cover Document and the two attached documents, all three of which form the Agreement on Additional Terms and Conditions of Sale - Watermelon and Melon Seeds and Plants (the "**Agreement**"):
 - Notice and Special Limitations of Warranty: Triploid Hybrid Watermelon Seed _____ (please initial)
 - Additional Terms and Conditions of Sale –Watermelon and Melon Seeds and Plants _____ (please initial)
2. I acknowledge that I am 18 years of age or older and am fully authorized by Grower to enter into and legally bind Grower to this Agreement; and
3. I recognize that the documents in this Agreement **contain important obligations, releases, notices, disclaimers, indemnifications, and waivers**; and
4. I acknowledge the recommendation above that I consult with an attorney to answer any questions that I may have regarding these documents prior to executing this Agreement and I represent and warrant that I have been given the opportunity to do so and that I understand this Agreement; and
5. Grower agrees to be bound by all of the terms and conditions set forth herein (including, without limitation, in the two documents attached hereto) in connection with any and all

transfers of Nunhems watermelon or melon seeds or plants, as an integral part of Nunhems' General Terms and Conditions of Sale found at <https://www.nunhems.com/us/en/legal/Terms-Conditions-Sale.html>.

General Provisions:

- (a) Entire Agreement:** This Agreement, along with Nunhems' General Terms and Conditions of Sale (including the documents referenced therein), forms the entire agreement as to the terms and conditions of sale between Nunhems and Grower with respect to all Nunhems' watermelon and melon seeds and plants, with the addition of any applicable price list and the price, amount and variety of seed, and delivery dates, or any other order-specific terms and conditions, all of which will be agreed to in writing by Grower and Nunhems for each of those respective orders. Grower agrees that Grower is not relying on and shall not rely on any written or verbal statement, agreement, warranty, or representation, other than those contained in this Agreement and Nunhems' General Terms and Conditions of Sale (including the documents referenced therein). Where this Agreement conflicts with Nunhems' General Terms and Conditions of Sale, this Agreement shall control.
- (b) No Amendment:** This Agreement may not be amended in any way except in writing signed by an authorized representative of both parties that specifies its intent to amend this Agreement by name.
- (c) Severability:** If any provision of this Agreement is held to be unenforceable, all other terms of this Agreement shall remain in effect and shall be fully enforceable.
- (d) Facsimiles and Counterparts:** Electronic signatures and scanned or facsimile copies of any signed original Agreement transmitted electronically or re-transmitted shall be considered original signature pages for all purposes. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[Signatures appear on the page immediately following this]

Nunhems USA, Inc. (Authorized Representative)

(Signature) (Printed Name and Title)

Date: _____

I am authorized to sign this Agreement for the "Grower" named below.

Grower: _____
(Person or Entity Printed Name)

(Signature) (Date)

(Printed Name) (Title)

(Address)

(Address) (City) (State) (Zip Code)

(Area Code and Telephone Number)

Nunhems Customer Service can be reached at:
nunhems.customerservice.us@vegetableseeds.basf.com
1200 Anderson Corner Road, Parma, ID 83660

NOTICE AND SPECIAL LIMITATIONS OF WARRANTY: TRIPLOID HYBRID WATERMELON SEED

- A. **NOTICE:** Triploid hybrid watermelons are sterile hybrids which characteristically produce fruits with few or no true seeds. Because the absence or relative absence of hard or true seeds in the flesh of the melon is its chief distinguishing characteristic, the triploid hybrid watermelon is often referred to as a “seedless” watermelon. Despite this popular perception, triploid watermelons often contain small, vestigial seeds. In addition, certain genetic, cultural and climatic factors are known to cause the formation of empty seed coats (small, white, immature seeds) and/or hard seeds in the flesh of the melons. Due to the wide variety of possible causes of hard seed formation, ***triploid hybrid watermelons are not guaranteed to produce seedless fruit.***

Triploid hybrid watermelon production requires a high level of grower sophistication. Triploid hybrid watermelons require a pollen source and bees to serve as pollen vectors. Triploid hybrids also require special care for satisfactory germination. Grower is encouraged to contact university extension personnel for government publications and information concerning recommended cultural practices. Nunhems USA, Inc. (“Nunhems”) can also supply certain of this information on request. Please contact your dealer/distributor or your local Nunhems sales representative. Nunhems suggests Grower develop expertise in growing triploid hybrid watermelons prior to instituting large scale commercial production.

- B. **SPECIAL LIMITATION OF WARRANTY:** All triploid hybrid watermelon seeds are sold pursuant to Nunhems’ General Terms and Conditions of Sale found at <https://www.nunhems.com/us/en/legal/Terms-Conditions-Sale.html> and the Agreement on Additional Terms and Conditions of Sale - Watermelon and Melon Seeds and Plants of which this document forms a part.

Descriptions and illustrations of triploid hybrid watermelons represent triploid hybrid watermelons as grown under favorable growing conditions in favorable growing areas. Appearance and performance may vary in other geographical locations and under different growing conditions.

Nunhems expressly excludes any warranty that the triploid hybrid watermelon seed sold will produce “seedless” fruit. All implied warranties, including but not limited to, any implied warranties of merchantability and fitness for a particular purpose are expressly excluded.

Grower’s signature on the front page of the Agreement on Additional Terms and Conditions of Sale - Watermelon and Melon Seeds and Plants is evidence that Grower has read this Notice and Special Limitation of Warranty and that Grower agrees that Grower will be bound by it.

ADDITIONAL TERMS AND CONDITIONS OF SALE – WATERMELON AND MELON SEEDS AND PLANTS

Bacterial Fruit Blotch (“**BFB**”) on Watermelon and Melon, caused by *Acidovorax avenae* subsp. *Citrulli* is a serious disease that has become a significant risk factor in many areas where watermelons and/or melons are grown. The pathogen causing BFB can be introduced into a field by infested seed, infected transplants, volunteer cucurbits, and mechanical means or naturally spread from alternate hosts. Experts in research do not fully understand how to ensure that seed is completely free of BFB. They cannot treat seed to completely eliminate BFB. While it is impossible to conduct any testing procedures which will give 100% reliable results with regard to the presence of any seedborne BFB, Nunhems USA, Inc. (“**Nunhems**”) is testing all of its watermelon and melon seed lots. Consequently, Nunhems will have tested the number of seedlings from each lot pursuant to the industry approved standards and found no symptoms of BFB to be present within the known limits of detection. However, ***Nunhems does not assume any responsibility for the occurrence of BFB from planting seed, transplants or on the fruit produced.***

Gummy Stem Blight (“**GSB**”) is caused by the fungus, *Didymella bryoniae*, which attacks watermelons, melons and other cucurbits. Yield loss due to GSB occurs as a result of rapid defoliation of vines, fruit infection and subsequent decay. GSB has become a significant risk in the area of watermelon and melon production. The pathogen causing GSB can be introduced into a field by infected seed, infected transplants, volunteer cucurbits, mechanical means or naturally spread from alternate hosts and is present in the environment in many growing areas. Experts in research do not fully understand how to ensure that seed is completely free of GSB. They cannot treat seed to completely eliminate GSB. While it is impossible to conduct any testing procedures which will give 100% reliable results with regard to the identification of any seed borne GSB infection, Nunhems is using commercially reasonable efforts to test and/or treat all of its watermelon and melon seed lots. Consequently, all watermelon or melon seed lots sold have been tested or treated for the eradication of GSB, pursuant to current industry standards. However, ***Nunhems does not assume any responsibility for the occurrence of GSB from planting seed, transplants or on the fruit produced.***

Cucumber Green Mottle Mosaic Virus (“**CGMMV**”) is caused by a virus which attacks watermelons, melons, and other cucurbits. Early symptoms consist of vein clearing and crumpling of leaves. CGMMV has become a significant risk in the area of watermelon and melon field productions and especially greenhouse grown crop. The pathogen causing CGMMV can be introduced into a field or greenhouse by infected seed, infected transplants, volunteer cucurbits and mechanical means or naturally spread from alternate hosts, water, tools, and is present in the environment in many growing areas. Experts in research do not fully understand how to ensure that seed is completely free of CGMMV. While it is impossible to conduct any testing procedures which will give 100% reliable results with regard to the identification of any seed borne CGMMV infection, Nunhems is using commercially reasonable efforts to test and/or treat all of its watermelon and melon seed lots. Consequently, all watermelon or melon seed lots sold have been tested or treated for the eradication of CGMMV, pursuant to current industry standards. However, ***Nunhems does not assume any responsibility for the occurrence of CGMMV from planting seed, transplants or on the fruit produced.***

Nunhems hereby represents and warrants that it has tested representative samples of all seed lots to be covered by these Additional Terms and Conditions of Sale –Watermelon and Melon Seeds and Plants (“**Additional Terms**”) in accordance with current industry standards and has not detected the presence of BFB in any such representative samples. Nunhems represents and warrants that it has tested representative samples in accordance with industry standards and has not detected the presence of GSB

and CGMMV and/or it has treated the seed lot for the eradication of GSB and CGMMV in accordance with industry standards. Notwithstanding the above, ***Nunhems cannot and does not warrant that such tests or treatments are totally conclusive and cannot and does not warrant that the seeds and seedlings are free of BFB, GSB, or CGMMV and further, cannot guarantee, and hereby disclaims any express or implied warranty, that BFB, GSB, and CGMMV will not be introduced to such watermelon or melon seeds or plants from outside sources at a later time.***

1. Grower's Release Of All Liability For Bacterial Fruit Blotch, Gummy Stem Blight, and CGMMV.

Acknowledging the above, Grower still wishes to purchase or accept Nunhems' watermelon and/or melon seeds or plants and Grower is willing to assume all risks of loss associated with BFB, GSB, and/or CGMMV.

Accordingly, ***Grower hereby fully and unconditionally releases Nunhems, its distributors and dealers (individually and collectively, the "Sellers") from any and all liability with respect to the presence of BFB, GSB, and CGMMV, on or within such seeds or plants or the vulnerability of such products to BFB, GSB, and CGMMV. Grower acknowledges and agrees that Sellers shall have no responsibility or liability for any losses or damages relating in any way to BFB, GSB, or CGMMV under any legal theory, including, but not limited to, negligence or strict products liability.***

Sellers acknowledge that all other aspects of any express warranty, as contained on product labels, do apply, and that any waiver or limitation on the Sellers' express warranty resulting from the terms and conditions of these Additional Terms only apply to the presence on or within, or vulnerability of, such seeds and plants to BFB, GSB, and CGMMV.

Grower acknowledges that contamination may occur in a transplant house, in the field, or under circumstances beyond the Sellers' control.

2. Grower's Agreement Not to Resell, Transfer or Distribute Seeds or Plants.

In consideration for Sellers agreeing to sell or provide watermelon and/or melon seeds or plants to Grower for the purpose of producing a single commercial crop for end use, Grower hereby agrees that Grower will only use such seeds or plants for plantings on Grower's own holdings, and will not, under any circumstances, sell, transfer, distribute, or in any way dispose of any such seeds or plants grown from the seeds, with or without consideration, to any third party. Any such transfer would be a material breach of this Agreement and Sellers would have the right to cease all sales of watermelon seeds or plants to Grower immediately upon written notice to Grower.

3. Grower's Indemnification Agreement.

Grower acknowledges that in the event that Grower breaches the terms and conditions of Section 22 of these Additional Terms, with respect to the distribution of any such watermelon or melon seeds or plants to a third party, Sellers could incur liability to such third parties.

Therefore, Grower hereby unconditionally agrees to defend, indemnify, and hold harmless Sellers from any loss, liability, or damage which Sellers, may incur, including, but not limited to, reasonable attorneys' fees, relating to any claim by a third party who received any portion of the watermelon or melon seeds or plants which are covered by this Agreement as sold or provided by Sellers to Grower.

4. All Other Terms of the Nunhems Label Apply.

Except as expressly provided within these Additional Terms and Nunhems' General Terms and Conditions of Sale, all remaining terms, disclaimers, limitations, and conditions as disclosed and set forth on the Nunhems product label and in the Nunhems' General Terms and Conditions of Sale regarding limited liability and limited license shall apply to all Grower's purchases or acceptances of Nunhems' watermelon or melon seeds and plants.

Grower's signature on the front page of the Agreement on Additional Terms and Conditions of Sale - Watermelon and Melon Seeds and Plants is evidence that Grower has read these Additional Terms and Conditions of Sale –Watermelon and Melon Seeds and Plants and that Grower agrees that Grower will be bound by them.

Please return to Stokes Seeds Inc:
Mail: 13031 Reflections Dr, Holland, MI 49424
Fax: 877-994-0333
Email: customerservice.us@stokeseeds.com