



Rupp Seeds Inc.
17919 County Road B
Wauseon, Ohio 43567

Watermelon Waiver

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NOTICE, WAIVER and COMPLETE RELEASE AGREEMENT

Bacterial Fruit Blotch (BFB) and Gummy Stem Blight (GSB) are serious diseases that have become significant risk factors in many areas where watermelons are grown. The Pathogens causing these diseases (Acidovorax avenae subsp. citrulli for BFB and Didymella bryoniae for GSB), and other watermelon diseases, can be introduced into a field by infested seed, infected transplants, volunteer watermelons, mechanical means, or natural spread from alternate hosts, or may already be present in the field on crop debris or in the soil. While it is impossible to conduct testing procedures that will give 100% reliable results with regard to the identification of any seedborne pathogen, Rupp Seeds' suppliers test all of their watermelon seed lots for commercial sale.

Depending on the supplier, a representative sample of seeds from each watermelon seed lot has been tested pursuant to current industry standards, and no symptoms of these Pathogens were found to be present within the known limits of detection in the sample tested. Rupp Seeds understands that its suppliers have tested representative samples of all watermelon seed lots covered by this agreement and have not detected the presence of the Pathogens in any such representative samples. Notwithstanding the above, Rupp Seeds cannot and does not guarantee or warrant that such tests are totally conclusive nor that the seeds are free of the Pathogens and, further, cannot and does not guarantee or warrant that the Pathogens may not be introduced to such seeds and/or watermelon plants from outside sources at a later time.

GROWER'S RELEASE OF ALL LIABILITY FOR BACTERIAL FRUIT BLOTCH.

Acknowledging the above, Grower still wishes to purchase watermelon seeds, and Grower is willing to assume all risks of loss associated with these Pathogens. Accordingly, Grower hereby fully and unconditionally releases Rupp Seeds and its suppliers from any and all liability with respect to the presence of the Pathogens on or within such seeds, or the vulnerability of such seeds, to the Pathogens. Grower acknowledges and agrees that Rupp Seeds and its suppliers shall have no responsibility or liability for any losses or damages relating in any way to the Pathogens under any legal theory including, but not limited to, negligence, breach of warranty, breach of contract, or strict products liability.

Rupp Seeds acknowledges that all other aspects of its express warranty, as contained on the label, do apply, and that any waiver or limitation on the Rupp Seeds express warranty resulting from the terms and conditions of this Agreement, only apply to the presence on or within, or vulnerability of such seeds, to the Pathogens. Grower further agrees that Rupp Seeds and its suppliers also have no liability or responsibility for its watermelon seeds or plants grown therefrom if they are contaminated with the Pathogens after the seeds are delivered to Grower. Grower acknowledges that contamination may occur in a transplant house, in the field, or under circumstances beyond the control of Rupp Seeds and for which Rupp Seeds is not liable to Grower.

GROWER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM WITH RESPECT TO THE SALE OF SEEDS IS LIMITED IN ALL EVENTS TO A REFUND OF THE PURCHASE PRICE OF THE SEEDS. Grower shall not be entitled to any incidental or consequential damages, including planting or replanting costs, lost profits, or any other expenses, losses or damages. Notice of any claim must be received by Rupp Seeds by registered mail within thirty (30) days after the alleged defect in the seeds becomes apparent to Grower.

GROWER'S AGREEMENT NOT TO RESELL SEEDS OR PLANTS.

In consideration for Rupp Seeds or its suppliers agreeing to sell watermelon seeds to Grower, Grower hereby agrees that it/he/she will only use such seeds for plantings on its/his/her own holdings, and will not, under any circumstances, sell, transfer, distribute or in any way dispose of any such seeds or seedlings grown from the seeds, with or without consideration, to any third party.

GROWER'S INDEMNIFICATION AGREEMENT.

Grower acknowledges that in the event it/he/she breaches the terms and conditions of the fourth paragraph of this Agreement with respect to the distribution of such watermelon seeds to a third party, Rupp Seeds and their suppliers could incur liability to such third parties. Therefore, Grower hereby unconditionally agrees to defend and indemnify Rupp Seeds and any of its suppliers, from any and all loss, liability, or damage which Rupp Seeds and any of its suppliers, may incur, including, but not limited to reasonable attorney's fees, relating to any claim by a third party who received any portion of the watermelon seeds which are covered by this Agreement as sold by Rupp Seeds to Grower.

ADDITIONAL NOTICE regarding TRIPLOID HYBRID WATERMELON.

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 hybrid watermelons are not true "seedless" watermelons. The first melons to ripen in a field of triploid hybrid watermelons often contain small, undeveloped seeds. In addition, certain genetic, cultural and climatic factors are known to cause the formation of empty seed coats (small, white, undeveloped seeds), also called "pips", 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.

GROWER UNDERSTANDS THIS AGREEMENT.

Grower represents and warrants that it/he/she has consulted with or had an opportunity to consult with an attorney, and that Grower fully understands the meaning and legal effect of this Agreement.

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Continued from the other side.

ALL OTHER TERMS OF THE LABEL APPLY.

Except as expressly provided within this Agreement, all remaining terms, disclaimers, limitations, and conditions of purchase as disclosed and set forth on the Rupp Seeds label and on the Rupp Seeds Notice to Purchase Regarding Liability shall apply to the Grower's purchases of watermelon seed.

CHOICE OF LAW AND CHOICE OF FORUM.

The parties agree that this Agreement is entered into the County of the applicable Rupp Seeds supplier and shall be construed in accordance with the laws of that state. It is further agreed that any litigation by and between Grower and Rupp Seeds, or with a Rupp Seeds supplier, relating to the sale of all such watermelon seeds hereunder, shall take place in the county of the applicable Rupp Seeds supplier.

ATTORNEY'S FEES.

In the event that Rupp Seeds or its supplier enforces any terms of this agreement in any litigation with Grower, Rupp Seeds and its supplier shall be entitled to recover reasonable attorney's fees from Grower.

SEVERABILITY.

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions was omitted. Grower has read the above Notice, Waiver, and Complete Release Agreement, understands it, and agrees to be bound by all of its terms. Grower understands this Agreement is part of the contract and a condition of sale, and that no shipment from will occur until Rupp Seeds receives this signed notice.

Rupp Seeds Inc.

Signature _____

Date _____

I have read and understand this release agreement and I agree to be bound by all of its terms. Please fill out completely and sign below.

Customer Number _____

Customer Name _____

Address 1 _____

Address 2 _____

City _____

State _____ Zip _____

Phone # _____

Fax # _____

Printed Name _____

Title _____

Signature _____

Date _____