

**AGREEMENT OF ADDITIONAL TERMS AND CONDITIONS OF SALE  
FOR WATERMELON AND MELON SEEDS/PLANTS SOLD OR TRANSFERRED BY  
Enza Zaden USA, 7 Harris Pl, Salinas, CA 93901**

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 seed borne BFB, Enza Zaden is testing all of its watermelon and melon seed lots. Consequently, Enza Zaden will have tested the number of seedlings from each lot as pursuant to the industry-approved standards and found no symptoms of BFB to be present within the known limits of detection. However, Enza Zaden does not assume any responsibility for the occurrence of same from planting seed, transplants or on the fruit produced.

Gummy Stem Blight (GSB), caused by the fungus, *Oidymella bryoniae*, 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, Enza Zaden is using its best 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, Enza Zaden does not assume any responsibility for the occurrence of same from planting seed, transplants or on the fruit produced.

Cucumber Green Mottle Mosaic Virus (CGMMV) is a *plant pathogenic virus* that attacks watermelons, melons and other cucurbits. In some environments and production cultures CGMMV can be especially problematic due to the ease with which it is transmitted and its stability and long viability in plant debris, in infected seed or in soil or on greenhouse or equipment surfaces. The damage it causes to the host plant and fruit can be extensive, resulting in substantial yield losses. Experts in research do not fully understand how to ensure that seed is completely free of CGMMV. They cannot treat seed to completely eliminate 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, Enza Zaden is using its best 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, Enza Zaden does not assume any responsibility for the occurrence of same from planting seed, transplants or on the fruit produced.

**It is the responsibility of the buyer, that before purchasing watermelon seeds, they understand the risk of WFB, GSB and CGMMV that they are assuming.**

1. Buyer agrees to assume the risk and take the sole responsibility that such seed and plants may fail to perform as expected including, but not limited to, failure to size or yield as expected or that such seed and plants may be infected with disease including, without limitation, the bacteria that cause BACTERIAL FRUIT BLOTCH GUMMY STEM BLIGHT AND CUCUMBER MOTTLE MOSAIC VIRUS ("Seed Disease"). GROWER acknowledges that contamination may occur in a transplant house, in the field, or under circumstances beyond the control of Sellers. Acknowledging the above, the GROWER still wishes to purchase or accept Enza Zaden watermelon and/or melon seeds or plants and the GROWER is willing to assume all risks of loss associated with Seed Disease. Accordingly, GROWER hereby FULLY AND UNCONDITIONALLY RELEASES ENZA ZADEN AND ITS DISTRIBUTORS OR DEALERS (COLLECTIVELY THE "SELLERS") FROM ANY AND ALL LIABILITY WITH RESPECT TO THE PRESENCE OF SEED DISEASE ON OR WITHIN SUCH SEEDS OR PLANTS OR THE VULNERABILITY OF SUCH PRODUCTS TO SEED DISEASE. GROWER ACKNOWLEDGES AND AGREES THAT SELLERS SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY LOSSES OR DAMAGES RELATING IN ANY WAY TO SEED DISEASE. UNDER ANY LEGAL THEORY INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR STRICT PRODUCTS LIABILITY.

2. BUYERS acknowledge that all other aspects of the EXPRESS WARRANTY, DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY, as contained on the ENZA ZADEN label, do apply, and that the waiver or limitation on the Sellers' express warranty resulting from the terms and conditions of this Agreement, only apply to the presence on or within, or vulnerability of, such seeds and plants to Seed Disease.

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

3. GROWER'S AGREEMENT NOT TO RESELL SEEDS OR PLANTS. In consideration for Sellers agreeing to sell or provide watermelon and/or melon seeds or plants to GROWER, GROWER hereby agrees that it/he/she will only use such seeds or plants 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 plants grown from the seeds, with or without consideration, to any third party.

4. GROWER'S INDEMNIFICATION AGREEMENT. GROWER acknowledges that in the event it/he/she breaches the terms and conditions of paragraph 2 of this Agreement, with respect to the distribution of any such watermelon seeds or plants to a third party, Sellers could incur liability to such third parties. THEREFORE, GROWER HEREBY UNCONDITIONALLY AGREES TO DEFEND AND INDEMNIFY SELLERS, FROM ANY LOSS, LIABILITY, OR DAMAGE WHICH SELLERS, 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 OR MELON SEEDS OR PLANTS WHICH ARE COVERED BY THIS AGREEMENT AS SOLD OR PROVIDED BY SELLERS TO GROWER.

5. 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.

6. ALL OTHER TERMS OF THE Enza Zaden 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 Enza Zaden label and on the Enza Zaden LIMITATION OF WARRANTY AND LIABILITY regarding liability shall apply to all GROWER'S purchases or acceptance of watermelon and/or melon seed and plants.

7. CHOICE OF LAW, CHOICE OF FORMAL NOTICE OF REQUIRED ARBITRATION, CONCILIATION, MEDIATION. The parties agree that this Agreement shall be construed in accordance with the laws of the State of California. Under the seed laws of several states ARBITRATION, CONCILIATION OR MEDIATION is required as prerequisite to maintaining a legal action based upon the failure of seed that this notice relates to produce as represented. BUYER SHOULD CONSULT ITS STATE DEPARTMENT OF AGRICULTURE for specific filing requirements as soon as BUYER learns of the facts upon which a claim is to be based before any legal action is initiated. It is also agreed that any litigation by and between GROWER and Sellers, relating to the sale or acceptance of all such watermelon and/or melon seed or plants hereunder, shall take place in Salinas, Monterey County, California, USA.

8. ATTORNEY'S FEES. In the event that Sellers enforce any terms of this Agreement in any litigation with GROWER, Sellers shall be entitled to recover reasonable attorney's fees from GROWER.

9. This Agreement shall be valid from October 1, 2019 until September 30, 2021.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

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