

**AGREEMENT OF ADDITIONAL TERMS AND CONDITIONS OF SALE
FOR WATERMELON AND MELON SEEDS/PLANTS SOLD OR TRANSFERRED BY
NUNHEMS USA, INC.**

NOTICE: Read this entire Agreement before signing. If the terms are not acceptable, do not sign this Agreement. If you do not understand any of the terms of this Agreement, consult an attorney.

_____ (“Buyer”) wishes to purchase and Nunhems USA, Inc. (“NUNHEMS”), its distributors or dealers (the “Sellers”) are willing to sell/provide NUNHEMS watermelon and/or melon seeds and/or plants grown from those seeds (hereinafter referred to as “NUNHEMS Watermelon/Melon Seed Products”) under the terms and conditions outlined in this Agreement of Additional Terms and Conditions of Sale (“Agreement”) during the period November 1, 2018 to October 31, 2020 (“the Sales Period.”). Therefore, Buyer and Sellers agree, for good and valuable consideration, including, but not limited to, the sale price of the NUNHEMS Watermelon/Melon Seed Products and such Products themselves, that the following terms and conditions of sale shall govern every purchase/acquisition of NUNHEMS Watermelon/Melon Seed Products by Buyer during the Sales Period:

1. LIMITATIONS ON RE-SALE OR TRANSFER

1.1 Prohibited Sales: Buyer agrees that the following types of sales or transfers of NUNHEMS Watermelon/Melon Seed Products are prohibited (“Prohibited Sales”): sales or transfers are prohibited to any person who has not signed an Agreement of Additional Terms and Conditions of Sale for the current Sales Period (section 1.3). BUYER AGREES THAT IT WILL INDEMNIFY, DEFEND AND HOLD SELLERS HARMLESS FROM ANY AND ALL CLAIMS ARISING FROM PROHIBITED SALES OF NUNHEMS WATERMELON/MELON SEED PRODUCTS, WHETHER THE LEGAL THEORY FORMING THE BASIS OF SUCH CLAIM INVOLVES CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

1.2 Authorized Sales or Transfers: The following types of re-sale or transfer of NUNHEMS Watermelon/Melon Seed Products are authorized (“Authorized Sales”): Sales and transfers are authorized: (i) to a Grower who has signed an Agreement of Additional Terms and Conditions of Sale for the current Sales Period (section 1.3) or (ii) to another party who has signed an Agreement of Additional Terms and Conditions of Sale for the current Sales Period (section 1.3).

1.3 Buyer’s Duty to Notify of Terms and Conditions of Sale Prior to Authorized Sale or Transfer: PRIOR to any Authorized Sale, transfer or donation of Watermelon/Melon Seed Products, Buyer agrees to notify any person receiving NUNHEMS Watermelon/Melon Seed Products of the terms and conditions of sale in this Agreement by requiring such person to sign an Agreement of Additional Terms and Conditions of Sale (for Watermelon and Melon Seeds & Plants Sold or Transferred by NUNHEMS). Buyer agrees to obtain a copy of the signed Agreement of Additional Terms and Conditions of Sale PRIOR to purchase by and/or delivery of NUNHEMS Watermelon/Melon Seed Products to any person. Executed Agreements of Additional Terms and Conditions of Sale shall be sent to NUNHEMS via U.S. mail or nationally recognized courier service at the address below no later than ten (10) working days after delivery or shipment of seed. Blank copies of the Agreement of Additional Terms and Conditions of Sale can be obtained upon request from NUNHEMS, 1200 Anderson Corner Road, Parma, ID 83660.

2. RISK OF NONPERFORMANCE UNDER FIELD CONDITIONS:

2.1 Risk of Nonperformance: Failure of seed to germinate and/or yield and quality reduction may occur as a result of environmental factors specific to this seed including, without limitation, cold temperatures, heat, excess moisture, drought, wind and hail, disease, pests, inadequate fertility, misapplication of pesticides, planting date, planting location, soil type, irrigation practices, insects, disease and weed pressures and other acts of God. All such risks of nonperformance and/or reduced performance shall be assumed by the Buyer and user.

2.2 Bacterial Fruit Blotch on Watermelon and Melon Notice: Bacterial Fruit Blotch (BFB) on watermelon and melon, *Acidovorax avenae* subsp. *citrulli*, is a serious disease that has become a significant risk in watermelon and melon cultivation. The pathogen causing BFB can be introduced into a field by infected seed, infected transplants, volunteer cucurbits, and mechanical means or can be naturally spread from alternate hosts. Researchers 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 identification of any seed borne BFB infection, NUNHEMS is using its commercial best efforts to test all of its watermelon and melon seed lots. Consequently, NUNHEMS will have tested a sample number of seedlings from each lot pursuant to the industry approved standards, and will have found no symptoms of BFB to be present within the known limits of detection prior to selling each lot. However, NUNHEMS does not assume any responsibility for the occurrence of same from planting seed, transplants or on the fruit produced.

2.3 Gummy Stem Blight Notice: 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 watermelon and melon production. The pathogen causing GSB can be introduced into a field by infected seed, infected transplants, volunteer cucurbits, and mechanical means or can be naturally spread from alternate hosts and is present in the environment in many growing areas. Researchers do not fully understand how to ensure that seed is completely free of GSB. They cannot treat seed to completely eliminate STB. 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 its commercial best efforts to test and/or treat all of its watermelon and melon seed lots. Consequently, all watermelon or melon seed lots sold will have been tested or treated for the eradication of GSB, pursuant to current industry standards, prior to sale. However, NUNHEMS does not assume any responsibility for the occurrence of same from planting seed, transplants or on the fruit produced.

2.4 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 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 can be naturally spread from alternate hosts, water, or tools, and is present in the environment in many growing areas. Researchers 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 its commercial best efforts to test and/or treat all of its watermelon and melon seed lots. Consequently, all watermelon or melon seed lots sold will have been tested or treated for the eradication of CGMMV, pursuant to current industry standards, prior to sale. However, NUNHEMS does not assume any responsibility for the occurrence of same from planting seed, transplants or on the fruit produced.

2.5 Assumption of Risks: NUNHEMS and Buyer and User acknowledge that this sale/transfer of NUNHEMS Watermelon/Melon Seed Products is a commercial transaction. Therefore, as a condition of sale of all NUNHEMS Watermelon/Melon Seed Products, Buyer and User acknowledge that it has been informed of the risk of non performance and the risks associated with the potential presence of BFB, GSB, and CGMMV, and hereby waives any right to assert any claim against Sellers whether for breach of contract, tort, negligence or otherwise. Buyer and User also release Sellers from any and all claims relating to BFB, GSB, and CGMMV with respect to all NUNHEMS Watermelon and Melon Seed. Furthermore, Buyer and User expressly acknowledge that its exclusive and sole remedy against Sellers for any loss resulting from the use or sale of the seed is limited to return of the purchase price of said seed. This waiver has been accounted for in the price of the NUNHEMS Watermelon/Melon Seed Products. Additionally, if any seed is repackaged, all remedies against Sellers will be waived, including return of the purchase price, and Sellers will have no liability whatsoever to any other party. As a further condition of sale for watermelon seed, the Buyer and User agree that any seed or plants purchased from NUNHEMS will be produced or grown in accordance with "Guidelines for Control of Bacterial Fruit Blotch in Watermelon" as published by the National Watermelon Association, Inc., August 1996, including any subsequent amendments.

3. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

3.1 Exclusive Express Warranty: NUNHEMS hereby states, as its sole and exclusive warranty that NUNHEMS Watermelon/Melon Seed Products conform to label descriptions that are required by State and Federal law when shipped from or delivered at NUNHEMS' shipping facility.

NUNHEMS MAKES NO OTHER EXPRESS WARRANTY.

3.2 Disclaimer of Warranty: NUNHEMS DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT PERMITTED BY STATE AND FEDERAL SEED LAW, ALL NUNHEMS WATERMELON/MELON SEED PRODUCTS ARE SOLD AS IS.

3.3 Exclusive Remedy: BUYER'S AND USER'S EXCLUSIVE REMEDY AND NUNHEMS' SOLE LIABILITY FOR LOSS OR DAMAGE ARISING FROM PURCHASE OR USE OF NUNHEMS WATERMELON/MELON SEED PRODUCTS SHALL BE AN AMOUNT EQUAL TO THE PRICE PAID, IF ANY, FOR THE NUNHEMS WATERMELON/MELON SEED PRODUCTS USED.

3.4 Limitation of Liability: BUYER OR USER MAY NOT RECOVER ANY AMOUNT FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFIT, LOSS OF YIELD AND AMOUNTS EXPENDED IN USING OR GROWING SUCH NUNHEMS WATERMELON/MELON SEED PRODUCTS, OR FOR HARVESTING THE PRODUCE OF SUCH NUNHEMS WATERMELON/MELON SEED PRODUCTS. THIS LIMITATION OF LIABILITY SHALL BE APPLICABLE TO ANY CLAIM PRESENTED TO NUNHEMS WHETHER THE LEGAL THEORY FORMING THE BASIS OF SUCH CLAIM INVOLVES CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

Buyer and User agree that if NUNHEMS refunds an amount equal to the price Buyer or User paid, if any, for NUNHEMS Watermelon/Melon Seed Products, this limitation of liability will not have failed of its essential purpose.

3.5 Prompt Notice of Claim: NUNHEMS must have prompt notice of any claim arising from the use of NUNHEMS Watermelon/Melon Seed Products so that an immediate inspection of the allegedly affected seed and/or crop can be made. Buyer or User shall notify NUNHEMS immediately, but no later than seven (7) days after the defect or other basis of such claim is discovered or should have been discovered. Any claims made for which NUNHEMS did not receive notice within seven (7) days shall be barred.

3.6 Statute of Limitation: Any action against NUNHEMS for breach of contract and any claim for breach of warranties must be commenced within one (1) year after the cause of action accrues. All actions shall be barred after such time.

4. RELEASE AND INDEMNITY: With respect to all NUNHEMS Watermelon/Melon Seed Products purchased by Buyer, 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 causes BFB, the fungus that causes GSB, or the virus that causes CGMMV. Buyer releases, indemnifies and agrees to defend and hold Sellers harmless from any and all claims of whatever kind or nature arising from such non-performance or disease, but Buyer's obligation to indemnify, defend and hold Sellers harmless shall not include a claim for breach of the express warranty of this Agreement of Additional Terms and Conditions of Sale. Buyer's obligation to indemnify, defend and hold NUNHEMS harmless for any claims based upon or arising out of the above shall continue even if Buyer transfers such seed or plants grown from such seed. Buyer's obligation to indemnify, defend and hold Sellers harmless shall include, but not be limited to, reasonable attorneys' fees and costs incurred by NUNHEMS.

By executing an Agreement of Additional Terms and Conditions of Sale prior to an Authorized Sale, any person receiving NUNHEMS Watermelon/Melon Seed Products pursuant to an Authorized Sale thereby agrees to indemnify and hold Sellers harmless for such non-performance.

Notwithstanding the indemnity provisions of this Agreement, in the event Buyer is named by a subsequent buyer or transferee as a defendant in a legal action based upon seed performance pertaining to NUNHEMS Watermelon/Melon Seed Products sold to Buyer pursuant to this Agreement, provided that Buyer obtained a validly executed Agreement of Additional Terms and Conditions of Sale PRIOR to an Authorized Sale, and provided Buyer did not tamper with the seeds in any way or take any actions that would result in any independent liability, and did not make any representations as to the seed that vary in any way from NUNHEMS' labels and published sales materials, NUNHEMS shall indemnify, defend and hold Buyer harmless from any such claims.

5. NOTICE OF REQUIRED ARBITRATION, CONCILIATION, MEDIATION: Under the Seed laws of several States, ARBITRATION, CONCILIATION OR MEDIATION is required as a prerequisite to maintaining a legal action based upon the failure of seed to which this notice relates to produce as represented. BUYER SHOULD CONSULT ITS STATE DEPARTMENT OF AGRICULTURE for specific requirements as to filing procedures, fees, scope of application, statutory period of limitations, etc., as soon as BUYER learns of the facts upon which a claim is to be based before any legal action is initiated. Failure to follow this procedure could limit BUYER'S legal rights or limit the amount of damages BUYER may be able to recover, depending on the laws of BUYER'S State.

6. CHOICE OF LAW AND CHOICE OF FORUM: The parties agree that this Agreement shall be construed in accordance with the laws of the State of Idaho. If local or State law requires alternative dispute resolution (such as arbitration, conciliation or mediation) then the parties shall comply with such requirements. It is further agreed that any litigation by and between Buyer and NUNHEMS or any authorized NUNHEMS distributor/dealer, relating to the sale or acceptance of all such NUNHEMS Watermelon/Melon Seed Products hereunder, shall take place in Ada County, Idaho, USA.

7. ATTORNEYS' FEES: In the event that NUNHEMS or its distributor/dealer enforces any terms of this Agreement in any litigation with Buyer, NUNHEMS or the distributor/dealer shall be entitled to recover reasonable attorney's fees from Buyer.

8. GENERAL PROVISIONS:

8.1 Entire Agreement: This Agreement is the entire agreement as to the terms and conditions of sale between Seller and Buyer with the exception of the price, amount and variety of seed and delivery dates for particular orders during the Sales Period which will be agreed to for each of those respective orders. Buyer and User agree that it is not relying on any statement, agreement, writing, warranty or representation, other than those contained in this Agreement.

8.2 No Amendment: This Agreement may not be amended in any way except in writing signed by an authorized representative of both parties.

8.3 Facsimiles: The parties agree that facsimile transmission of any signed original Agreement and/or re-transmission shall be same as the delivery of an original.

8.4 Severability: If any term of this Agreement is held to be unenforceable, all remaining terms of this Agreement shall remain in effect and shall be fully enforceable.

9. SALE OR USE IN MEXICO: In addition to the terms and conditions set forth above, if NUNHEMS Watermelon/Melon Seed Products are sold or used in Mexico, NUNHEMS certifies that NUNHEMS has complied with the requirements of Articles 8, 9 and 10 of Mexico's Law Governing the Production, Certification, and Sale of Seeds and Articles 13, 20, and 21 of the Regulations implementing such law.

10. INTERNATIONAL SALES OR USE: For all sales of NUNHEMS Watermelon/Melon Seed Products between parties of different countries, the United Nations Convention on Contracts shall not apply. In such case International Seed Federation (ISF) Rules and Usages for the Trade in Seeds for Sowing Purposes shall apply except as specified in this Agreement or in related Sales Orders or Sales Invoices.

THE UNDERSIGNED ACKNOWLEDGES THAT HE/SHE HAS READ AND UNDERSTANDS EACH OF THE TERMS OF THIS AGREEMENT OF ADDITIONAL TERMS AND CONDITIONS OF SALE; THAT HE/SHE UNDERSTANDS THAT NUNHEMS HAS RECOMMENDED THAT BUYER CONSULT WITH AN ATTORNEY TO ANSWER ANY QUESTIONS BUYER MAY HAVE REGARDING THIS AGREEMENT; AND THAT HE/SHE HAS AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF BUYER.

<p>BUYER:</p> <p>_____</p> <p>Print Company Name</p> <p>_____</p> <p>Print Name</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Title</p> <p>_____</p> <p>Date</p> <p>_____</p> <p>Address</p> <p>_____</p> <p>City, State ZIP</p> <p>_____</p> <p>Phone</p>	<p>Nunhems USA, Inc Dealer or Distributor:</p> <p>Stokes Seeds Inc</p> <p>_____</p> <p>Print Name</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Title</p> <p>_____</p> <p>Date</p>
<p>SELLER or ACCEPTED BY:</p> <p>NUNHEMS USA, INC</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Title</p> <p>_____</p> <p>Date</p> <p>Please return to Stokes Seeds Inc: Mail: 13031 Reflections Dr, Holland, MI 49424 Fax: 877-994-0333 Email: customerservice.us@stokeseeds.com</p>	