



WATERMELON WAIVER FORMS

Stokes Seeds and its suppliers require a signed waiver on watermelon seed orders. Please follow the instructions below to ensure the process is completed correctly.

Instructions:

1. Read all information contained in these documents carefully.
2. Please feel free to consult a lawyer before signing.
3. Ensure you have filled out and signed the required fields on **ALL** documents.
4. Make a copy of the signed forms to keep for your personal records.
5. Send **ONE** signed copy of all documents **including supplier waiver (if applicable)** to Stokes Seeds using one of the following methods:

Email: stokes@StokeSeeds.com

Fax: 1-800-272-5560

CDN Post: Stokes Seeds Ltd.
PO Box 10
296 Collier Rd. S.
Thorold, ON
L2V 5E9

US Post: Stokes Seeds Inc.
PO Box 548
Buffalo, NY
14240-0548

If you have any questions or require clarification on the attached forms **please contact our Sales Department** at 1-800-263-7233.



**NOTICE, WAIVER AND COMPLETE RELEASE AGREEMENT, INCLUDING
LIMITATION OF WARRANTY AND LIMITATION OF LIABILITY (GROWER)
NOT RECOMMENDED FOR PLANTING IN SOUTH CAROLINA**

Watermelon Fruit Blotch (WFB), caused by Acidovorax avenae subsp. citrulli, and Gummy Stem Blight (GSB), caused by the fungus Didymella Bryoniae are serious diseases which have become a significant risk factor in many areas where watermelons are grown. The pathogens causing WFB and GSB can be introduced into a field by infested seed, infected transplants, volunteer watermelon, mechanical means, or natural spread from alternate hosts.

- GROWER'S RELEASE OF ALL LIABILITY FOR WATERMELON FRUIT BLOTCH (WFB) AND GUMMY STEM BLIGHT (GSB).** Acknowledging the above, GROWER still wishes to purchase watermelon seeds from Stokes Seeds Limited or Stokes Seed Company of Niagara Falls Inc. (jointly referred as STOKES SEEDS), and GROWER is willing to assume all risks or loss associated with WFB and GSB. Accordingly, GROWER hereby FULLY AND UNCONDITIONALLY RELEASES STOKES SEEDS AND ITS SUPPLIERS FROM ANY AND ALL LIABILITY WITH RESPECT TO THE PRESENCE OF WFB AND GSB ON OR WITHIN SUCH SEEDS OR THE VULNERABILITY OF SUCH SEEDS, TO THE WFB AND GSB. GROWER ACKNOWLEDGES AND AGREES THAT STOKES SEEDS AND ITS SUPPLIERS SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY LOSSES OR DAMAGES RELATING IN ANY WAY TO WFB AND GSB, UNDER ANY LEGAL THEORY INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR STRICT PRODUCTS LIABILITY. STOKES SEEDS acknowledges that all other aspects of its express warranty, as contained on its label, do apply, and that any waiver or limitation on the STOKES SEEDS express warranty resulting from the terms and conditions of this Agreement, only apply to the presence on or with vulnerability of, such seeds, to WFB and GSB. GROWER further agrees that Stokes Seeds and its suppliers have no liability or responsibility for its watermelon seeds or plants grown therefrom, if they are contaminated with WFB and GSB after the seeds are delivered to grower. GROWER acknowledges that contamination may occur in transplant house, in the field, or under circumstances beyond the control of Stokes Seeds.
- GROWER'S AGREEMENT NOT TO RESELL SEEDS OR PLANTS.** In consideration for STOKES SEEDS, or its authorized suppliers, agreeing to sell watermelon seed to GROWER, GROWER hereby agrees that it/he will only use such seeds for plantings on its/his 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. To the extent that GROWER does not utilize all such watermelon seeds purchased from STOKES SEEDS, all such unopened containers may be returned to STOKES SEEDS or its authorized suppliers, within six (6) months from the date of initial purchase for a refund of the purchase price.
- GROWER'S INDEMNIFICATION AGREEMENT.** GROWER acknowledges that in the event it/he breaches the terms and conditions of paragraph 2, this Agreement, with respect to the distribution of any such watermelon seeds to a third party, STOKES SEEDS and authorized STOKES SEEDS suppliers could incur liability to such third parties. THEREFORE, GROWER HEREBY UNCONDITIONALLY AGREES TO DEFEND AND INDEMNIFY STOKES SEEDS, AND ANY AUTHORIZED STOKES SEEDS SUPPLIERS, FROM ANY AND ALL LOSS, LIABILITY, OR DAMAGE WHICH STOKES SEEDS, OR STOKES SEEDS 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 STOKES SEEDS TO GROWER.
- GROWER UNDERSTANDS THIS AGREEMENT.** GROWER represents and warrants that it/he 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.
- ALL OTHER TERMS OF THE STOKES SEEDS 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 STOKES SEEDS label and on the STOKES SEEDS NOTICE TO BUYER REGARDING WARRANTY AND CONDITION OF SALE shall apply to all of GROWER's purchases of watermelon seed.
- CHOICE OF LAW AND CHOICE OF FORUM.** The parties agree that this Agreement is entered into in the City of Thorold, in the province of Ontario, and shall be construed in accordance with the laws of the Province of Ontario. It is further agreed that any litigation by and between GROWER and STOKES SEEDS, relating to the sale of all such watermelon seeds hereunder, shall take place in Thorold, Ontario, Canada.
- ATTORNEY'S FEES.** In the event that STOKES SEEDS enforces any terms of this Agreement in any litigation with GROWER, STOKES SEEDS shall be entitled to recover reasonable attorney's fees from GROWER.

I have read and understand this release agreement and I agree to be bound by all of its terms.

GROWER SIGNATURE

NAME _____

ADDRESS: _____

CITY STATE ZIP CODE

TELEPHONE: _____

DATE: _____

Stokes Seeds	
PER: _____	STOKES SEEDS AUTHORIZED SIGNATURE
DATE: _____	
FOR OFFICE USE ONLY	
<input type="text"/>	<input type="text"/>
STATE	ORDER NUMBER

IN U.S.A
P.O. Box 548
Buffalo NY 14240-0548
800-263-7233

IN CANADA
P.O. Box 10
Thorold ON L2V 5E9
800-263-7233

STOKES SEEDS VARIETY REQUESTED	QTY/LBS	STOKES SEEDS VARIETY REQUESTED	QTY/LBS
1. _____	_____	5. _____	_____
2. _____	_____	6. _____	_____
3. _____	_____	7. _____	_____
4. _____	_____	8. _____	_____

NOTICE, WAIVER, LIMITATION OF LIABILITY AND WARRANTY DISCLAIMER

This Notice, Waiver, Limitation of Liability and Warranty Disclaimer is made by U.S. Seedless, L.L.C. (USS) and/or US Seedless, Inc. (USS) and applies to all transfers of watermelon seed by USS to any person including, but not limited to, its customers, distributors, and dealers. The terms contained herein apply to all transfers of seeds or transplants by USS whether the transfer is made via sale or by free sample or trial.

1. Disease Control Notice: Watermelon crops have been affected by various diseases over the last several years. Watermelon Fruit Blotch or *Acidovorax avenae* subsp. *citrulli* (WFB), and Gummy Stem Blight or *Didymella bryoniae* (GSB) in particular are serious diseases which have become a significant risk in the area of watermelon cultivation. The pathogens causing these diseases and all other watermelon diseases can be introduced into a field by infested seed, infected transplants, infected volunteer watermelon, mechanical means, infected debris, or by natural spread from alternate hosts. **The causes of these diseases are due to factors beyond the control of USS and USS cannot guarantee that the seeds are free of WFB, GSB or any other disease.** It is scientifically impossible to conduct any testing procedure which will give 100% reliable results with regard to the identification of any seedborne WFB, GSB or other infection. Nonetheless, USS is using its best efforts to test all of its seed lots. Consequently, 10,000 seeds from each lot have been tested pursuant to current industry standards, and no symptoms or indicators of WFB were found to be present within the known limits of detection. USS recommends that the buyer examine all seed purchased carefully and conduct any tests it deems necessary to reduce the possibility that any seeds are infected with WFB, GSB or any other seedborne disease. The buyer agrees that any seed or plants purchased from USS will be produced or grown in accordance with the "Guidelines for Control of Bacterial Fruit Blotch in Watermelon" as published by the National Watermelon Association, Inc., August 1996, including any subsequent amendments.

2. Waiver and Limitation of Liability: USS and the undersigned acknowledge that this transfer of watermelon seed is a commercial transaction between merchants with respect to goods of this kind. As a condition of sale of all watermelon seeds sold by USS or transplants grown from USS seeds and with respect to all USS seeds or transplants grown from USS seeds provided as free samples or trials, the undersigned acknowledges that he has been informed of the risks associated with the potential presence of WFB, GSB, or any other diseases and hereby waives any right to assert any claims against USS, whether for breach of contract, tort, negligence, strict liability, or otherwise. The undersigned also releases USS, its distributors, its dealers, agents and suppliers from any and all claims relating to WFB, GSB or any other diseases with respect to all USS watermelon seed or transplants grown from USS seed supplied by USS or its dealers. The undersigned expressly acknowledges that his exclusive and sole remedy against USS for any loss resulting from the use of USS seed or transplants grown from USS seed is limited to return of the purchase price of said seed. In addition, the undersigned understands and acknowledges that seedless watermelons are not necessarily 100% free of all seeds, but may contain some edible soft seeds, or some inedible hard seeds. It is understood that seedless watermelon varieties may be affected by environmental conditions including, but not limited to, soil properties, plant spacing, irrigation, climactic conditions, chemical applications, insects, nematodes, virus, bacteria, fungus, or other conditions which may cause stress and/or otherwise pathologically impact the watermelon plants. This in turn may cause an increase in seeds, and variations in watermelon flesh color, size, weight, sugar content, water content, fiber content, and hollow heart condition. Additionally, if any seed is repackaged, all remedies against USS will be waived, including return of the purchase price, and USS will have no liability whatsoever to any other parties.

3. Disclaimer of Warranties:

a. Disclaimer of Express Warranty: Any affirmation of fact or promise made by USS shall not be deemed to create an express warranty that the goods shall conform to the affirmation or promise; any description of the goods by catalogue or otherwise is for the sole purpose of identifying them and shall not be deemed to create an express warranty.

b. Disclaimer of Implied Warranty: **This seed or transplant transfer is made on the express understanding that there is no implied warranty that the goods shall be merchantable and that there is no implied warranty that the goods shall be fit for any particular purpose. The buyer acknowledges that he is not relying upon the seller's skill or judgment to select or furnish goods suitable for any particular purpose and that there are no warranties which extend beyond the description on the face hereof.**

4. Transplant Grower ("Buyer") Obligations: The Undersigned Buyer agrees to obtain from each customer or entity to which the Buyer sells USS watermelon seeds or transplants, a duly signed and executed Waiver and Release form in duplicate in the form required by USS. Should the customer be a partnership then all partners must sign the Waiver and Release form. Should the customer be a Company then the Waiver and Release form should be signed by the Directors and Secretary. The

undersigned agrees to inform in writing each customer or entity to which it sells USS watermelon seeds that they are bound by the terms of the Waiver and Release form for all future sales of USS Watermelon seeds. The buyer agrees that failure to obtain the executed grower Waiver and Release form from each purchaser of USS watermelon seed will result in the Buyer accepting liability for any claim demand or action by the purchaser in respect of the seed and the Buyer agrees to indemnify USS and the Reseller/Distributor against any liability in respect thereof.

5. Limitation of Damages: USS shall not be liable for incidental or consequential damages or crop failure damages as a result of the use of USS seed or transplants grown from USS seed.

6. Indemnity: The undersigned agrees that he will not resell or transfer any USS seeds or transplants grown from USS seeds except in compliance with the obligations set forth in paragraph 4 above. The undersigned agrees to defend, indemnify and hold harmless USS against any and all claims, actions, proceedings, judgments, attorney's fees, court costs, or other potential liabilities against USS of any nature whatsoever relating to any resale or transfer of said seeds and transplants.

7. Choice of Law / Choice of Forum / Jury Waiver: The parties agree that this Agreement is entered into in the County of Bucks, Commonwealth of Pennsylvania and shall be construed in accordance with the laws of the Commonwealth of Pennsylvania. It is further agreed that any litigation between the parties relating to this Agreement or any sale or transfer of USS seeds or transplants grown from USS seed hereunder shall take place in the County of Bucks, Commonwealth of Pennsylvania. **The undersigned specifically agrees to waive its right to a jury and hereby agrees that any such legal action will be tried without a jury.**

8. 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 were omitted.

I have read the above Notice, Waiver, Limitation of Liability and Warranty Disclaimer, understand it, and agree to be bound by all of its terms. The foregoing terms constitute the entire agreement between the parties regarding the sale or transfer of USS seeds or transplants grown from USS seeds. I also acknowledge that I have had the opportunity to consult with an attorney regarding this notice. I understand this notice is part of my contract and a condition of sale, and that no shipment from USS or a USS dealer will occur until USS and/or the dealer receive this signed notice. I agree to be bound by the foregoing terms for all future transfers of seeds by USS or transfers of transplants grown from USS seeds.

Dated: _____

By: _____
Reseller / Distributor

Dated: _____

By: _____
Buyer / Transplant Grower / Watermelon Grower

(printed name/company) (address) (telephone)