



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

# Watermelon Waiver

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## NOTICE, WAIVER and COMPLETE RELEASE AGREEMENT

Watermelon Fruit Blotch (WFB) is a serious disease that has become a significant risk factor in many areas where watermelons are grown. The pathogen causing WFB can be introduced into a field by infested seed, infected transplants, volunteer watermelon, mechanical means, or natural spread from alternate hosts. While it is impossible to conduct testing procedures that will give 100% reliable results with regard to the identification of any seed born WFB infection, Rupp Seeds suppliers are testing all of their seed lots. Depending on the supplier, 10,000 to 50,000 seeds from each seed lot have been tested pursuant to current industry standards, and no symptoms of WFB were found to be present within the known limits of detection. Rupp hereby represents that its suppliers have tested representative samples of all seed lots to be covered by this agreement, and has not detected the presence of WFB bacteria in any such representative samples. Notwithstanding the above, Rupp Seeds cannot guarantee that such tests are totally conclusive and nor that the seeds are free of WFB and, further, cannot guarantee that WFB bacteria may not be introduced to such seeds and/or watermelon plants from outside sources at a later time.

## GROWERS RELEASE OF ALL LIABILITY FOR WATERMELON FRUIT BLOTCH.

Acknowledging the above, Grower still wishes to purchase watermelon seeds, and Grower is willing to assume all risks of loss associated with WFB. Accordingly, Grower hereby fully and conditionally releases Rupp and its suppliers from any and all liability with respect to the presence of WFB bacteria on or within such seeds or the vulnerability of such seeds, to the WFB bacteria. Grower acknowledges and agrees that Rupp and its suppliers shall have no responsibility or liability for any losses or damages relating in any way to WFB, under any legal theory including but not limited to negligence 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 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 WFB bacteria. Grower further agrees that Rupp and its suppliers have no liability or responsibility for its watermelon seeds or plants grown there from, if they are contaminated with WFB bacteria 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.

## 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 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.

## GROWER'S INDEMNIFICATION AGREEMENT.

Grower acknowledges that in the event it/he breaches the terms and conditions of paragraph 2, 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 or any of their suppliers, from any and all loss, liability, or damage which Rupp Seeds or any of their 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.

## 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 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 label and on the Rupp 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 Rupp's 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 under a Rupp supplier, relating to the sale of all such watermelon seeds hereunder, shall take place in the county of the Rupp supplier.

## ATTORNEY'S FEES.

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

## 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 Name \_\_\_\_\_

Address 1 \_\_\_\_\_

Address 2 \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

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

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Variety	Lot	Quantity