

SALE

**NEBRASKA CROP IMPROVEMENT ASSOCIATION
GROWER BUYER AGREEMENT AND BULK SALE CERTIFICATE**

TRANSFER

Notice to Seller Member: A bulk sale certificate must be completed for each sale at the time of purchase.

Variety _____	Pure Seed % _____	Germination % _____
Crop Kind _____	Other Crops % _____	Dormant/Hard % _____
Lot No. _____ Class _____	Inert % _____	Total Germination % _____
Net Weight _____	Weed Seed % _____	Date Tested _____
Origin: NE <input type="checkbox"/> U.S. Plant Variety Protected	Noxious Weeds _____	Seed/lb _____ Bu/Wt _____

Sold By _____	Sold To _____
Address _____	Address _____
Town/State/Zip _____	Town/State/Zip _____

Signatures _____	_____	Date _____
Seller Member	Grower Buyer	

READ ALL TERMS ON THIS SIDE AND REVERSE

This Nebraska Crop Improvement Association Grower Buyer Agreement (“Agreement”) is entered into between you (“Grower Buyer”), the Nebraska Crop Improvement Association (“NCIA”), and the above signed (“Seller Member”), a licensed NCIA member and authorized seller of the Seed. Grower Buyer acknowledges and agrees that the University of Nebraska-Lincoln is a third-party beneficiary of this Agreement and that the University of Nebraska-Lincoln may enforce this Agreement as if it had been entered into between Grower Buyer and the University of Nebraska-Lincoln.

NCIA License to Grower Buyer:

- NCIA grants to Grower Buyer, a limited, non-exclusive, non-transferable right to purchase, plant and use seed (“Seed”) from NCIA, subject to the terms and conditions specified in this Agreement.

Grower Buyer agrees:

- That Grower Buyer may use Seed for the sole purpose of production of grain and/or forage for feeding or processing and that no other use is permitted. Without limiting the foregoing, Grower Buyer shall not save any crop/progeny produced from Seed for replanting nor supply any crop produced from Seed for replanting by another person or entity other than as provided for under 7 U.S.C. §2543 – the “crop exemption” of the Plant Variety Protection Act of 1994, as amended (“PVPA”).
- That Grower Buyer shall not subject Seed and/or crop/progeny of Seed (nor their respective pollen or plant parts) to any breeding, biotechnology process, or any other genetic manipulation techniques, including (but not limited to) tissue culture, genetic fingerprinting or transformation techniques.
- The variety(ies) of Seed purchased under this Agreement may be protected under the PVPA. NCIA sublicenses Grower Buyer, under the applicable Plant Variety Protection Act Certificates (“PVPA Certificate”) to use the variety under the conditions set forth in this Agreement.
- Export of the progeny/crop produced from Seed for planting, breeding and/or biotechnology purposes is prohibited. Transfer of Seed to another person or entity outside of the United States for planting is prohibited.
- If Grower Buyer breaches this Agreement, in addition to NCIA’s other remedies, Grower Buyer’s limited license will terminate immediately.
- This Seed is proprietary to or licensed to NCIA. Grower Buyer agrees it would be a violation of this Agreement to allow Seed or its progeny to be used to create a new variety and/or to use crop/progeny of Seed for replanting other than as provided for herein. Grower Buyer agrees and acknowledges that any use of the Seed which is forbidden by this Agreement will constitute a misappropriation of the personal property of NCIA, and will therefore result in a breach of this Agreement. Grower Buyer agrees that NCIA may bring an action to recover damages as a result of the breach of this Agreement, along with reasonable attorney fees and costs associated with any action commenced in regard thereto. Grower Buyer further acknowledges and agrees that NCIA has expended substantial effort in developing a market for Seed and that any use of the Seed which is forbidden by this Agreement will damage NCIA’s legitimate expectation of future sales of Seed and that any use of Seed from NCIA in violation of this Agreement will constitute an attempt to intentionally injure or destroy NCIA’s prospective business expectations in future sales of Seed. Furthermore, Grower Buyer agrees that any violation of this agreement will cause NCIA irreparable harm, and that NCIA shall have the right to immediately seek injunctive relief upon any breach or threatened breach of this Agreement by Grower Buyer.

- That any use of Seed in violation of this Agreement will cause a minimum damages to NCIA of \$100.00 per fifty (50) pound unit for each fifty (50) pound unit, or part thereof, so used, and that if Seed is used to create a new variety and/or if the crop/progeny of Seed is used for replanting except as provided for herein, minimum damages of \$100.00 per fifty (50) pound unit for all new varieties created and/or such crop/progeny used for replanting will be caused. This Agreement shall not limit any rights, legal or equitable, that NCIA has but shall be cumulative.
- Upon written request, to permit NCIA to (a) review the Farm Service Agency crop reporting information on any land farmed by Grower Buyer including Summary Acreage History Report, (b) enter upon your property to take any samples or conduct any tests, including genetic testing or “fingerprinting” reasonably necessary to ensure compliance with this Agreement, and (c) examine and copy any records and receipts that could be relevant to Grower Buyer’s performance of this Agreement.

NCIA’s Warranties and Grower Buyer’s Remedies:

Seller Member warrants that the Seed purchased by Grower Buyer is as described, subject to tolerances established by law. THE FOREGOING EXPRESS WARRANTY EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO OTHER WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED. By acceptance and use of the Seed, Grower Buyer agrees that Seller Member’s liability and the Grower Buyer’s exclusive remedy for breach of any warranty and all losses, injury or damages resulting from the use or handling of Seed (including claims based in contract, negligence, product liability, strict liability, tort, or otherwise) shall be the price paid by the Grower Buyer for the quantity of Seed involved or, at the election of Seller Member, the replacement of the Seed. In no event shall Seller Member be liable for any incidental, consequential, special or punitive damages. All claims must be presented within a reasonable time after discovery (not to exceed 30 days from date of discovery). Crop yields and quality are due to many causes and conditions beyond Seller Member’s control, such as disease and insect variants, the time, manner and amount of application of chemicals, fertilizers and other additives, the substance used and weather conditions. Therefore, Seller Member can not warrant yield or quality.

General Terms:

- Grower Buyer’s rights under this Agreement may not be transferred to another person or entity without written consent of NCIA.
- If any provision of this Agreement is determined to be unenforceable, the remaining provisions shall remain in full force and effect.
- Any waiver of NCIA’s rights under this Agreement in any single instance shall not constitute a waiver in any future instance.
- Once this Agreement is signed by Grower Buyer, this Agreement shall remain in effect until such time that NCIA provides written notice to Grower Buyer terminating this Agreement.
- NCIA may amend this Agreement from time to time by written notice to Grower Buyer. Continuing use of Seed or possession of any progeny of Seed after receipt of an amendment from NCIA constitutes Grower Buyer’s agreement to be bound by the amendment.
- Grower Buyer consents that the exclusive jurisdiction for any dispute arising under this Agreement or in connection to any breach thereof shall be in the state courts for Lancaster County, Nebraska or the federal courts encompassing Lancaster Country, Nebraska. Grower Buyer hereby irrevocably consents to the personal jurisdiction of such courts.
- This Agreement shall be governed by the laws of the State of Nebraska and the United States (without regard to the choice of law rules).
- This Agreement, any NCIA amendments thereto, and any language on or attached by NCIA to containers of Seed constitutes the entire Agreement between NCIA and Grower Buyer. Where there is a conflict between terms and conditions in this Agreement and any language on or attached by NCIA to containers of Seed, this Agreement shall control.

TO SIGN THIS AGREEMENT YOU MUST BE THE GROWER BUYER FOR ALL FIELDS THAT WILL GROW PLANTS FROM SEED YOU OBTAIN FROM NCIA. YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO AND DO HEREBY BIND TO THIS AGREEMENT YOURSELF, ALL ENTITIES FOR WHICH YOU OBTAIN SEED, AND ALL INDIVIDUALS AND ENTITIES HAVING AN OWNERSHIP INTEREST IN ANY ENTITIES FOR WHICH YOU OBTAIN SEED. GROWER BUYER’S SIGNATURE IS ACKNOWLEDGEMENT THAT GROWER BUYER HAS RECEIVED A COPY OF THIS AGREEMENT AND THAT GROWER BUYER HAS READ, UNDERSTANDS AND ACCEPTS ALL THE NCIA TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. FURTHERMORE, YOUR USE OF THE SEED BY ANY INDIVIDUAL OR ENTITY LISTED HEREIN SHALL OBLIGATE SAID INDIVIDUAL OR ENTITY TO ABIDE BY THE TERMS OF THIS AGREEMENT. GROWER BUYERS WARRANTS AND REPRESENTS THAT THEY HAVE FULLY ADVISED ANY INDIVIDUAL OR ENTITIES USING SEED FROM NCIA OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.