

This document is for wholesale only

Midge Tolerant Wheat

Retailer Agreement



2012

Developers

Agriculture & Agri-Food Canada
Crop Development Centre

Midge Tolerant Wheat Varietal Blends

AC [®] Fieldstar VB	AC [®] Conquer VB
AC [®] Glencross VB	AC [®] Shaw VB
AC [®] Goodeve VB	AC [®] Vesper VB
AC [®] Unity VB	CDC Utmost VB

Official Distributors

Alliance Seed Corporation
CANTERRA SEEDS
Fauschou Farms
FP Genetics
SeCan

Whereas Agriculture & Agri-Food Canada and Crop Development Centre have developed the following midge tolerant wheat varietal blends: AC[®] Fieldstar/AC[®] Waskada, AC[®] Glencross/AC[®] Burnside, AC[®] Goodeve/AC[®] Intrepid, AC[®] Unity/AC[®] Waskada AC[®] Conquer/5701PR, AC[®] Shaw/AC[®] Domain, AC[®] Vesper/AC[®] Waskada and CDC Utmost/Harvest (collectively, the **"Midge Tolerant Varieties"** and each, a **"Midge Tolerant Variety"**);

And whereas the Midge Tolerant Varieties are distributed by official distributors Alliance Seed Corporation, CANTERRA SEEDS, Fauschou Farms, FP Genetics and SeCan (collectively, the **"Distributors"** and each, a **"Distributor"**);

And whereas the Canadian wheat industry has established protocols and undertaken extensive communication about the need for stewardship of the midge tolerant wheat;

And whereas the undersigned retailer (the **"Retailer"**) has agreed to purchase Certified seed of a Midge Tolerant Variety from the undersigned vendor (the **"Vendor"**), who is acting as agent for the Distributors for the limited purpose of executing this Agreement;

Now therefore, for valuable consideration the Retailer and Distributors agree that by taking delivery of the Certified seed of a Midge Tolerant Variety the Retailer agrees to comply with the terms and conditions set forth in **"Terms and Conditions of the Midge Tolerant Wheat Retailer Agreement"** attached hereto and forming a part hereof (the **"Agreement"**). The Retailer acknowledges that the stewardship principles set forth in this Agreement are necessary to preserve midge tolerance of the Midge Tolerant Varieties so that Canadian wheat producers can continue to benefit from the midge tolerant gene technology.

By signing below, the Retailer acknowledges that the Retailer has read, understands and accepts the Terms and Conditions of the Midge Tolerant Wheat Retailer Agreement attached hereto, and accepts responsibility for stewardship of the midge tolerant gene in any midge tolerant wheat the Retailer sells.

Retailer Information:

Company Name: _____

Address: _____

City Province Postal code

Phone: _____

Contact Name: _____
print first and last name

Contact Email: _____

Retailer's Signature

Date

Vendor (wholesaler) Information:

Company Name: _____

Address: _____

City Province Postal code

Phone: _____

Contact Name: _____
print first and last name

Contact Email: _____

Vendor's Signature (as agent for the Distributors)

Date

Midge Tolerant Wheat Authorized Retailer #: _____

Variety Sold: _____

Variety Sold: _____

Bushels Sold: _____

Bushels Sold: _____

TERMS AND CONDITIONS OF THE MIDGE TOLERANT WHEAT RETAILER AGREEMENT

A. Representations and Acknowledgements

1. The Retailer has successfully completed the Midge Tolerant Wheat Retailer training and received a Midge Tolerant Wheat Authorized Retailer number.
2. The Retailer is purchasing Certified seed of a Midge Tolerant Variety which contains a refuge of a midge susceptible variety.
3. The Retailer understands the Midge Tolerant Varieties have been developed with the transfer of the *Sm 1* gene giving these varieties tolerance to wheat midge. No other known source of midge tolerance has been identified. Therefore, proper stewardship of the Midge Tolerant Varieties is critical to protect the effective life of this midge tolerance gene.
4. The Retailer understands that the wheat midge may attack the refuge variety, that the level of the refuge in farm-saved seed may change substantially over multiple generations and that in order to preserve the midge tolerance, it is necessary to limit the use of farm-saved seed derived from Midge Tolerant Varieties to one generation past Certified seed.
5. The Distributors are authorized to enforce Plant Breeder's Rights with respect to the Midge Tolerant Varieties and have the exclusive right to sell, or produce for the purpose of selling, seed for planting of the Midge Tolerant Varieties.
6. The Retailer understands that this Agreement will remain in effect for so long as the Retailer is selling or in possession of Certified seed. The Retailer also understands that this Agreement shall apply to any future acquisitions of any Midge Tolerant Varieties by the Retailer and that each Distributor shall be entitled to rely upon this Agreement in respect of such future acquisitions.
7. The Retailer understands that the types and quantities of Midge Tolerant Varieties that he, she or it purchases will be provided to the Distributors for the purpose of monitoring compliance with this Agreement.

B. Conditions of Use

1. The Retailer agrees to have all customers that purchase Midge Tolerant Varieties review and sign a Midge Tolerant Wheat Stewardship Agreement prior to receiving seed. The Retailer also agrees to act as the agent of the Distributors for the limited purpose of signing such Midge Tolerant Wheat Stewardship Agreements.
2. The Retailer agrees to submit to the Midge Tolerant Wheat Stewardship Resource Centre sales by customer for all Midge Tolerant Varieties sold, by June 30 of each season.
3. The Retailer understands that the Retailer may be audited for compliance with this Agreement and that each Distributor of a Midge Tolerant Variety that the Retailer acquires has the right to inspect and take copies/samples as required of the Retailer's records and physical premises.

Remedies

1. The Retailer agrees that if the Retailer does not comply with the terms of this Agreement they will be prohibited from purchasing or selling any Midge Tolerant Varieties in the future. The Retailer's name will also be published on a "do not sell list".
2. The Retailer acknowledges that breach by it of this Agreement may cause irreparable harm for which damages are not an adequate remedy and that, in addition to any other remedy to which the Distributors may be entitled, the Distributors shall be entitled to equitable relief (including without limitation injunctive relief) in relation to such breach.
3. The Retailer agrees that the Retailer will be responsible for the cost of any audits which prove the Retailer has not been compliant with this Agreement.
4. In addition to the remedies described above, the Retailer agrees that if the Retailer does not comply with this Agreement, that the Retailer will also be liable for all legal expenses incurred by each Distributor in enforcing its rights under this Agreement.
5. The Retailer consents to the collection, use and disclosure of his or her personal information recorded in this Agreement to the Vendor and each Distributor for the purpose of monitoring and enforcing compliance with this Agreement.