



ENDLESS SUMMER® NON-PROPAGATION LICENSE AGREEMENT

For the Upshift and Sale of Plant Varieties utilizing the **ENDLESS SUMMER®** trademark in the **United States** and **Canada**

By accepting this order, and/or unpacking these ENDLESS SUMMER® plants, you, the customer shown on the shipping documents receiving this order (“Licensee”), accept the terms and conditions below. If you do not agree to the terms of this agreement, do not accept this order, and do not unpack these plants. If this order is refused, promptly contact your sales representative.

This License Agreement is made between Bailey Nurseries, Inc. (“BNI”) and Licensee.

WHEREAS BNI is the sole owner of the trademark ENDLESS SUMMER® (“Trademark”) for which it has received trademark registration in the United States and Canada, and under which it licenses the distribution and sale of certain plant varieties (“Licensed Product”); and

WHEREAS Licensee desires to enter into a license agreement (“License Agreement”) for the purchase of Licensed Product for the purpose of upshifting and/or planting and sale of such under Trademark,

NOW THEREFORE BNI grants the right to upshift, plant, and sell Licensed Product under the following conditions:

1. All Licensed Product received with this order and intended **for direct resale** must be sold in the BNI approved ENDLESS SUMMER® container and have a BNI approved ENDLESS SUMMER® label attached.
2. All Licensed Product received with this order and **upshifted or planted** into a container smaller than, and including, a size #5 (3.93 Gal by volume, 14.88 L), must be sold in a BNI approved ENDLESS SUMMER® container. All Licensed Product upshifted or planted into a container larger than a size #5 must be sold in a black container void of any graphics, designs, logos, stamps, etc. **No Licensed Product may be planted or upshifted into any container less than size #2 (2 Gal by volume, 7.57 L).** All Licensed Product must have a BNI approved ENDLESS SUMMER® label attached to the plant. Labels cannot be attached directly to the pot.
3. **Re-selling, giving away, or otherwise distributing any ENDLESS SUMMER® labels or containers not attached to Licensed Product is strictly prohibited.**
4. **No propagation of Licensed Product in any form is permitted.**
5. Licensee shall allow BNI or BNI’s agents or representatives to inspect and inventory the Licensee’s premises and plantings of Licensed Product at any reasonable time and upon three days’ notice to ensure compliance with this License Agreement. Refusal to allow inspection shall result in the immediate termination of this License Agreement.
6. Licensee shall report to BNI immediately any sport, bud mutation, or mutant found in Licensed Products, whether upon receipt or while being grown into plants for sale. Upon request of BNI, Licensee shall provide to BNI all requested material of the sport, bud mutation, or mutant. Any sport, bud mutation, or mutant found in Licensed Product is and shall be the property of BNI, breeder or plant patent owner. Decision to commercialize such sports and details thereof shall be upon agreement by both Bailey and Licensee.
7. Should Licensee fail, neglect, or refuse, any of the conditions and agreements herein contained, Licensee shall be in default of License Agreement. In such case, BNI shall have the right to terminate this License Agreement and authorize discontinuation of further sales of Licensed Product to Licensee.
8. Sale of Licensed Product outside of the United States and Canada is strictly prohibited.

**ANY QUESTIONS REGARDING THIS AGREEMENT, PLEASE CONTACT:
Bailey Nurseries, Inc. at 651-768-3168**