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NOTICE OF LIMITATIONS OF WARRANTIES AND LIABILITY

This is a Release Agreement that limits your ability to recover damages that may arise from your use of watermelon seed sold by SHAMROCK SEED COMPANY, INC. ("SHAMROCK"). **THIS IS AN EXTREMELY IMPORTANT AGREEMENT AND YOU SHOULD READ IT CAREFULLY.** There are many risks inherently associated with growing watermelons, including the risks of disease. Although SHAMROCK employs extensive industry recognized quality control procedures, including but not limited to testing for germination, purity, and seed borne diseases, there are no practical tests that can ensure to a certainty that each seed will meet all growers' expectations. SHAMROCK will sell only lots tested and found to be free of Fruit Blotch. In order to sell its seed at a reasonable price, SHAMROCK requires that the purchasers of its seed agree that the sold and exclusive remedy against SHAMROCK, and any other Seller of SHAMROCK's seeds, will be limited to the return of the purchase price of the watermelon seed. You are agreeing to buy SHAMROCK's seed on that basis and you are agreeing to accept the risks and full responsibility for any damages or loss to your watermelon crop.

If you purchase seeds sold by SHAMROCK, you ("GROWER") agree to accept all risks associated with growing watermelons and you further agree with SHAMROCK and with any company from whom you obtained seed sold by SHAMROCK (collectively referred to as "SELLERS") that the following disclaimers and limitations will apply to any seeds obtained from the SELLERS ("the SEEDS").

1. **LIMITATION OF WARRANTY.** SELLERS warrant that the SEEDS will be labeled as required by Federal and applicable State law and they will conform to the label description. **SELLERS DO NOT MAKE AND SPECIFICALLY DISCLAIM ANY OTHER WARRANTY OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS MADE.**
2. **LIMITATION ON DAMAGES: EXCLUSIVE REMEDY.** CUSTOMER EXPRESSLY AGREES AND UNDERSTANDS THAT THE SOLE AND EXCLUSIVE REMEDY FOR LOSS OR DAMAGE ARISING OUT OF THE SEEDS OR PLANTS GROWN THEREFROM IS LIMITED TO RETURN OF THE PURCHASE PRICE OF THE SEEDS and that THERE SHALL BE NO RECOVERY FOR ANY OTHER TYPES OF DAMAGES, INCLUDING SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM USE OF THE SEEDS OR PLANTS GROWN THEREFROM, regardless of whether such damages are claimed under legal theories or breach of contract, negligence, strict products liability or breach of statute or regulation.
3. **GROWERS RELEASE OF ALL LIABILITY FOR WATERMELON FRUIT BLOTCH AND OTHER SEED BORNE DISEASES.** GROWER hereby FULLY AND UNCONDITIONALLY RELEASES SELLERS FROM ANY AND ALL LIABILITY AND DAMAGES (other than replacement of the SEEDS) ARISING OUT OF THE PRESENCE OF WATERMELON FRUIT BLOTCH BACTERIA OR ANY OTHER SEED BORNE DISEASE ON OR WITHIN THE SEEDS AND PLANTS GROWN THEREFROM, AND/OR THE VULNERABILITY OF THE SEEDS OR THE PLANTS GROWN THEREFROM TO THE WATERMELON FRUIT BLOTCH BACTERIA OR ANY OTHER SEED BORNE DISEASE.



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- 4. **GROWER'S RELEASE OF LIABILITY FOR SUSCEPTIBILITY TO DISEASE AND PHYSIOLOGICAL CONDITIONS SUCH AS WATERMELON RIND NECROSIS.** GROWERS HEREBY FULLY AND UNCONDITIONALLY RELEASE SELLERS FROM ANY AND ALL LIABILITY AND DAMAGES (other than replacement of the SEEDS) ARISING FROM THE SUSCEPTIBILITY OR VULNERABILITY OF THE SEEDS OR PLANTS GROWN THEREFROM TO WATERMELON RIND NECROSIS OR ANY DISEASE TO WHICH THE PLANTS MAY BE SUSCEPTIBLE.
- 5. **GROWER'S AGREEMENT NOT TO RESELL SEED OR PLANTS: INDEMNIFICATION.**
 - (a) GROWER hereby agrees that GROWER will only use the SEEDS for plantings on GROWER'S own holdings, and will not, under any circumstances sell, distribute or in any way transfer any of the SEEDS or plants grown therefrom to any third party. If GROWER does not utilize all the SEEDS, all unopened containers of the SEEDS may be returned to the SELLERS within sixty days from the date of receipt of the SEEDS for a refund of the purchase price.
 - (b) GROWER acknowledges that in the event GROWER breaches the terms and conditions of paragraph 5(A), SELLERS could incur liability to such third parties. THEREFORE, GROWER HEREBY UNCONDITIONALLY AGREES TO DEFEND AND INDEMNIFY SELLERS FROM ANY LOSS, LIABILITY, OR DAMAGE WHICH SELLERS MAY INCUR, INCLUDING, BUT NOT LIMITED TO REASONABLE ATTORNEY'S FEES, RELATING TO ANY CLAIM BY A THIRD PARTY WHO RECEIVED ANY SEEDS FROM GROWER.
- 6. **ATTORNEY'S FEES.** In the event that SHAMROCK and/or any SELLER of the SEEDS enforces any terms of this Release Agreement in litigation with GROWER, SHAMROCK and/or SELLERS of the SEEDS shall, in addition to any other relief to which they are entitled, be entitled to recover reasonable attorney's fees from GROWER.
- 7. **OTHER STATEMENTS REGARDING THE SEEDS.** Any recommendations, advertisements, or other oral or written statements regarding the use of the seeds shall not constitute a binding representation or contractual warranty. This Release Agreement shall cover all warranties, liabilities, and damages arising out of the use of watermelon seed sold by SHAMROCK unless and until this Release Agreement is superseded by a subsequent written release relating to warranties, liabilities, and damages.
- 8. **GROWER UNDERSTANDS THIS AGREEMENT.** GROWER represents and warrants that GROWER has consulted with or had an opportunity to consult with an attorney or other advisor, and that GROWER fully understands the meaning and legal effect of this Agreement.

GROWER: _____

VARIETY: _____ QUANTITY: _____ LOT #: _____

I HAVE READ AND UNDERSTAND THIS RELEASE AGREEMENT AND AGREE TO BE BOUND BY ALL OF ITS TERMS.

Signature: _____ Date: _____

Company Name or Entity: _____

Address: _____