NOTICE, AGREEMENT AND TERMS AND CONDITIONS OF SALE OR TRANSFER
Relating to BACTERIAL FRUIT BLOTCH and GUMMY STEM BLIGHT
ON WATERMELON SEED
Before June 30, 2007

NOTICE: Please read this entire Notice, Agreement and Terms of Sale or Transfer ("Agreement") before signing. It constitutes a binding agreement for transactions in [Company Name] Watermelon Seed ("Watermelon Seed") during the period beginning the date of first signature below and ending June 30, 2007 ("Sale Period"). If the terms are not acceptable, do not sign this Agreement. If you do not understand any of these terms of this Agreement, consult an attorney.

[Company Name] believes that Growers, Transplant Growers and Buyers of Watermelon Seed have significant responsibility for reducing loss and damage caused by certain seed borne diseases. Accordingly, [Company Name] provides this Agreement so that all parties understand what [Company Name] is doing and [Company Name] Conditions of Sale and Transfer for watermelon seed and, so the Buyers, Growers. Users and Sellers of [Company Name] Watermelon Seed understand their responsibilities and rights.

CHECK BOX THAT APPLIES TO THIS SALE OR TRANSFER

☐ Sale of Seed

[Company Name] ("Buyer") wishes to purchase AND [Company Name] Seed Company ("Company") and its dealers ("Sellers") are willing to sell [Brand Name] Brand watermelon seed under the terms and conditions outlined in this Agreement during the Sale Period. Buyer and Sellers agree that the following terms and conditions of sale shall govern every purchase of [Brand Name] Seed by Buyer during the Sale Period.

☐ Transfer of Seed to Transplant Grower

[Brand Name] ("Seed Owner") wishes to transfer to [Brand Name] ("Transplant Grower") Brand watermelon seed under the terms and conditions outlined in this Agreement during the Sale Period. Seed Owner and Transplant Grower agree that the following terms and conditions of sale shall govern every transfer of [Brand Name] Seed during the Sale Period.

1. LIMITATIONS ON AND REQUIREMENTS FOR RE- SALE OR TRANSFER

1.1 Prohibited Sales: Buyer agrees that sales or transfers are prohibited ("Prohibited Sales") to any person who has not signed an Agreement for the current Sales Period (section 1.3).

BUYER AGREES THAT IT WILL INDEMNIFY, DEFEND AND HOLD SELLERS HARMLESS FROM ANY AND ALL CLAIMS ARISING FROM PROHIBITED SALES OF WATERMELON SEED, WHETHER THE LEGAL THEORY FORMING THE BASIS OF SUCH CLAIM INVOLVES AGREEMENT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

1.2 Authorized Sales or Transfers: Sales and transfers are authorized ("Authorized Sales") to any Buyer who has signed an Agreement for the current Sales Period (section 1.3).

1.3 Buyer's Duty to Notify of Terms and Conditions of Sale Prior to Authorized Sale or Transfer

PRIOR to any Authorized Sale or Transfer, Buyer agrees to obtain agreement with every person receiving Watermelon Seed to the terms and conditions of sale in this Agreement by requiring such person to sign a copy of this Agreement. Buyer agrees to obtain a copy of the signed Agreement PRIOR to purchase by and/or delivery of Watermelon Seed to any person. Blank Agreements of Terms and Conditions of Sale or
Transfer are available upon request from a Customer Service Representative, at Seed Company. 

2. **LIMITATION OF WARRANTY AND LIABILITY**

2.1 **THE TERMS AND CONDITIONS OF THE LIMITATION OF WARRANTY AND LIABILITY (ATTACHED HERETO) APPLY TO ALL SALES OF WATERMELON SEED, AND THOSE TERMS ARE INCORPORATED INTO THIS DOCUMENT IN FULL, EXCEPT AS HERE EXPRESSLY MODIFIED.**

2.2 **BACTERIAL FRUIT BLOTCH Notice**

Bacterial Fruit Blotch of Watermelon (BFB), Acidovorax avenae subsp. citrulli, is a serious disease, which has been and continues to be a significant risk in many areas of watermelon cultivation.

In many, if not most or all of such cases, the cause(s) of the BFB infection and subsequent loss is difficult to prove or identify with assurance, as causes may include:
- existence of the BFB on seed as it came from the seed company,
- infection arising from BFB contamination or transfer in the transplant house,
- infection from the environment such as from prior years’ watermelon or melon crop or from wild cucurbits, or
- transfer from neighboring fields through insects, bird or animals.

Spread of BFB in a field, and the extent of damage, is affected by many factors, including weather and the grower’s agronomic practices (including use or not of preventive practices).

Watermelon Seed from Seed Company may carry BFB. While it is impossible to conduct any testing procedures to give results with 100% certainty with regard to the presence of any seed borne BFB infection, Seed Company is using the following efforts to test all of its watermelon seed lots, as follows:

**HYBRID and OPEN-POLLINATED SEED**
- Seed Company will use the standard “grow-out” and/or “PCR” test for the presence of BFB on 50,000 seed per production mother lot collected in a random sample.
- Only seed of production mother lots tested and found to be “negative” or with “no evidence” of BFB present, within the known limits of detection, will be sold.

2.3 **Gummy Stem Blight Notice**

Gummy Stem Blight (GSB) is caused by a fungus, Didymella bryoniae that attacks watermelons and other cucurbits. Yield loss due to GSB occurs as a result of rapid defoliation of vines and fruit infection and subsequent decay. GSB has been and continues to be a significant risk in many areas of watermelon production. The factors responsible for the introduction and spread of the pathogen causing GSB are similar to BFB. While it is impossible to conduct any testing procedures to give 100% reliable results with regard to the identification of any seed borne GSB infection, Seed Company is using the following efforts to test all of its watermelon seed lots.

**HYBRID AND OPEN POLLINATED SEED**
- Seed Company will use the standard “blotter” test for the presence of GSB as conducted by Seed Company on 1,000 seed per production mother lot from a random sample.
- Only seed of production mother lots tested and found to be “negative” or with “no evidence” of GSB present within the known limits of detection will be sold.

2.4 **Assumption of Risks**

Sellers and Buyer and User acknowledge that this sale of Watermelon Seed is a commercial transaction. Therefore, as a condition of sale of all Watermelon Seed, Buyer and User acknowledges that they have been informed of the risk of nonperformance and the risks associated with the potential presence of BFB and GSB. Buyer and User also release Sellers from any and all claims relating to BFB and GSB with respect to all Watermelon Seed. Furthermore, Buyer and User
expressly acknowledges that its exclusive and sole remedy against Sellers for any loss resulting from the use or sale of the seed is governed by the Limitation of Warranty and Liability.

3. **SALE OR USE IN MEXICO**

In addition to the terms and conditions set forth above, if Watermelon Seed are sold or used in Mexico, certifies that has complied with the requirements of Articles 8, 9 and 10 of Mexico's Law Governing the Production, Certification and Sale of Seeds and Articles 13, 20 and 21 of the Regulations implementing such law.

For all sales of watermelon seed sold or use in Mexico, I.S.F. Trading Rules shall govern except as may be amended herein.

The undersigned acknowledges that he/she has read and understands each of the terms of this Agreement; that he/she understands that Seed Company has recommended that Buyer consult with an attorney to answer any questions Buyer may have regarding this Agreement; and that he/she has authority to execute this Agreement on behalf of Buyer.

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**BUYER OR TRANSPLANT GROWER:**

(Print Company Name)

Customer #: ________________________________

(Print Name)

By: ________________________________

(Signature)

Title: ________________________________

Date: ________________________________

Address: ________________________________

City: ________________________________

State: __________ Zip: __________

Phone: ________________________________

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**SELLER/SEED OWNER:**

(Print Company Name)

(Print Name)

By: ________________________________

(Signature)

Title: ________________________________

Date: ________________________________

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