

NOTICE OF WAIVER AND INDEMNIFICATION REGARDING SEED BORNE DISEASE

The following producer of grafted watermelon and tomato plants, its officers, agents, and representatives shall be indemnified by this agreement:

Tri-Hishtil, LLC

(a Delaware limited liability company, hereinafter "Tri-Hishtil")

25 School House Road, Mills River, NC 28759

Purpose of Notice:

Tri-Hishtil specializes in the greenhouse production of grafted vegetable plants with a focus on watermelons, tomatoes, cantaloupes, peppers, and eggplants. Tri-Hishtil's grafting process involves the use of seeds purchased from seed growers or distributors ("Seed Vendors"), who have tested samples of their seed lots for disease prior to delivery to Tri-Hishtil. This Notice of Waiver and Indemnification by Tri-Hishtil is given to the undersigned end-user ("Customer") of Tri-Hishtil's grafted plants.

Definitions:

Bacterial Fruit Blotch – Bacterial Fruit Blotch (BFB), or *Acidovorax avenae* subsp. *citrulli*, is a serious disease which continues to be a serious risk in many areas of watermelon cultivation.

Gummy Stem Blight – Gummy Stem Blight (GSB), or *Didymella bryoniae*, a fungus, is a serious disease which continues to be a serious risk in many areas of watermelon cultivation.

Cucumber Green Mottle Mosaic Virus – Cucumber Green Mottle Mosaic Virus (CGMMV) is a serious disease which continues to be a serious risk in many areas of watermelon production.

Anthracnose – Anthracnose, or *Colletotrichum lagenarium*, a fungus, is a serious disease which continues to be a serious risk in many areas of watermelon production.

Clavibacter – *Clavibacter michiganensis* subs. *Michiganensis* is a disease which is a serious risk for tomato plants.

Notice:

WHILE TRI-HISHTIL'S SEED VENDORS MAY ROUTINELY TEST SAMPLES OF THEIR SEED LOTS, WATERMELON AND OTHER SEEDS MAY CARRY THE PATHOGENS WHICH CAUSE DISEASES, INCLUDING BUT NOT LIMITED TO THOSE IDENTIFIED ABOVE. IT IS IMPOSSIBLE TO CONDUCT ANY TESTING PROCEDURES WHICH WILL GIVE 100% RELIABLE RESULTS WITH REGARD TO THE PRESENCE OF ANY SEED BORNE DISEASE. TRI-HISHTIL CANNOT GUARANTEE THAT SUCH TESTS/TREATMENTS ARE TOTALLY CONCLUSIVE AND CANNOT GUARANTEE THAT ITS GRAFTED PLANTS ARE FREE OF ANY SEED BORNE DISEASES AND FURTHER, CANNOT GUARANTEE THAT SEED BORNE DISEASES MAY NOT BE INTRODUCED TO SUCH SEEDS AND/OR WATERMELON OR MELON PLANTS FROM OUTSIDE SOURCES AT A LATER TIME

Grafted plants are sold "as-is" and with all faults. As purchaser, Customer assumes all risks as to quality and performance of grafted plants, including the risk that such grafted plants may carry BFB, GSB, CGMMV, Anthracnose, and Clavibacter, or other diseases.

Customer hereby assumes all risk regarding such grafted plants, and expressly waives any damage claims with respect to BFB, GSB, CGMMV, Anthracnose, and Clavibacter, or other diseases on grafted plants.

The undersigned jointly and severally agree to defend, indemnify and hold harmless the above-named seed companies, their employees, agents, and dealers from and against any and all claims, demands, suits, liability, damages and expenses, including, but not limited to, attorneys' fees and court costs, which any of the above-named seed companies may suffer or may be subject to, or arising in any way from the distribution by any of the undersigned of the subject grafted plants and relating in any way to BFB, GSB, CGMMV, Anthracnose, and Clavibacter, or other diseases.

Limited Liability:

Customer's sole remedy regarding seed borne disease is limited to purchase price.

Agreement execution and renewal:

Tri-Hishtil requires, and Customer agrees, that Customer will execute this Waiver and Indemnification Agreement addressing watermelon (and other applicable seed or plant) diseases, and return it to Tri-Hishtil. This agreement may amended by Tri-Hishtil from time to time, and Customer will need to fully execute the revised agreement. No purchase orders will be valid without Tri-Hishtil's receipt of said fully executed Agreement.

THE UNDERSIGNED CUSTOMER HAS READ THE ABOVE NOTICE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ALL OF ITS TERMS. THE CUSTOMER ALSO ACKNOWLEDGES THAT THEY HAVE HAD THE OPPORTUNITY TO CONSULT WITH AN ATTORNEY REGARDING THIS NOTICE, AND UNDERSTANDS THIS NOTICE IS PART OF MY CONTRACT AND A CONDITION OF SALE WHICH APPLIES TO ALL GRAFTED PLANTS NOW AND IN THE FUTURE.

TRI-HISHTIL, LLC Authorized Representative or Distributor/DEALER Authorized Representative:

By: _____
(Signature) (Printed)
Title: _____
Date: _____

**25 School House Road, Mills River, NC 28759
Telephone No. (828) 891-6004**

THE UNDERSIGNED HAS READ AND UNDERSTOOD THIS AGREEMENT AND AGREES TO BE BOUND BY ALL OF ITS TERMS, AND WARRANTS AND REPRESENTS THEY ARE AUTHORIZED TO SIGN THIS AGREEMENT FOR CUSTOMER, NAMELY:

By: _____
(Signature) (Printed)
Title: _____
Date: _____

(Address) (City) (State) (Zip Code)

(Area Code and Telephone Number)