

## **Terms and Conditions of Sale**

### **Important Notice Regarding Your Rights – Please Read**

#### **SEED USE RESTRICTION AGREEMENT**

This Seed Use Restriction Agreement (the “Agreement”) applies to all users (“User(s)”) of the seed (“Seed”) contained in this package. If you purchase the Seed, you agree that you and any person or entity, including employees, representatives, contractors and agents thereof, who plant, grow, cultivate or otherwise use the Seed, will abide by these use restrictions. If you open or cause any person or entity to open a package of Seed, you agree that you accept the terms of this Agreement, and you, your employees, representatives, contractors and agents will abide by these use restrictions.

#### **SEED USE AGREEMENT**

M.S. Technologies, L.L.C. (“MS TECH”) and its suppliers are engaged in the business of developing and supplying for sale various varieties and/or hybrids of Seed. MS TECH and its suppliers have a substantial investment and expended substantial effort in the development and production of this seed, and in the use of subsequent production of Seed. MS TECH and its suppliers have existing contractual relationships with other distributors for the sale of seed and expectations of additional contracts for sale of seed from such distributors in the future. The purchase of the Seed includes a limited license to produce a single crop under MS TECH property rights, including where applicable certain U.S. patents which can be found on the package and seed tags.

In consideration of the foregoing, and in consideration of the Seed that User has been sold or otherwise granted the right to use, User hereby acknowledges and agrees that the production from the Seed will be used only for feed or processing, and unless USER has an agreement for such purposes, Seed and plants produced from Seed will not be used or sold for seed, breeding, or any variety or hybrid development or improvement purposes; these restrictions apply to all plants produced from Seed, including without limitation variant and inbred plants and Seed that may be contained in this package or grow from Seed. User acknowledges MS TECH and its suppliers have a proprietary interest in the use of subsequent production from the Seed, and agrees it would be a violation of this Agreement to allow the subsequent production of the Seed to be used to create any seed variety or seed product from said production. Any export of this Seed or its progeny from the country of purchase is strictly prohibited, except that forage or grain may be exported solely for use in feeding or processing.

User agrees and acknowledges that any use of the Seed, which is forbidden by this Agreement will constitute a misappropriation of the property of MS TECH and its suppliers and will therefore result in a breach of this Agreement. User agrees that MS TECH and/or its suppliers may bring an action to recover damages as a result of the breach of this Agreement, along with reasonable attorney fees and costs associated with any action commenced in regard thereto. User further agrees that the exclusive venue for any dispute arising under this Agreement or in connection to any breach thereof shall be in the federal or state courts for Dallas County, Iowa, and hereby irrevocably consents to the personal jurisdiction of such courts. This Agreement shall be governed under the laws of the State of Iowa.

User agrees and acknowledges that any use of the Seed, which is forbidden by this Agreement, will damage MS TECH and its suppliers’ legitimate expectation of future sales of seed, and any use of Seed in violation of this Agreement will constitute an attempt to intentionally injure or destroy MS TECH and its suppliers’ prospective business expectations in future sales of seed.

User agrees and acknowledges that any use of Seed from MS TECH in violation of this Agreement will cause substantial damage to MS TECH and/or its suppliers, and that if subsequent production of the Seed is used to create a seed variety or seed product, substantial damage to MS TECH and or its suppliers for all seed varieties or seed products thereby created will be caused. This Agreement shall not limit any other rights, legal or equitable, that MS TECH and its suppliers have but shall be accumulative.

User agrees to only use agricultural herbicide that are expressly labeled for use in conjunction with the Seed and have received government approvals as specified in a product use guide.

#### **NOTICE OF REQUIRED ARBITRATION**

Under the seed laws of several states arbitration, mediation or conciliation is required as a prerequisite to maintaining a legal action based upon the failure of seed to produce as represented. The consumer shall file a complaint along with the required filing fee (where applicable) with the Commissioner/Director/Secretary of Agriculture, Seed Commissioner, or Chief Agricultural Officer within such time as to permit inspection of the crops, plants or trees by the designated agency and the seller from whom the seed was purchased. A copy of the complaint shall be sent to the seller by certified or registered mail or as otherwise provided by state statute.

#### **OTHER TERMS & CONDITIONS**

For sale in the U.S. only. MS TECH assumes no responsibility for MS TECH’s supplier’s, distributor’s or dealer’s verbal and/or written claims, promises, warranties or actions which are contrary to MS TECH’s normal operating policies. USER must notify MS TECH within fourteen (14) days of becoming aware of alleged issues regarding the quality or performance of the Seed.

#### **LIMITATION OF WARRANTIES & DAMAGES**

MS TECH warrants, to the extent of the purchase price and to the extent that the packaging and label have not been compromised, that the Seed is as described on the package and on the tag attached thereto within recognized tolerances. MS TECH gives no other WARRANTY, expressed or implied, of MERCHANTABILITY or FITNESS of the Seed for any particular purpose, nor any warranty against loss due to any cause, including environmental conditions, soil conditions, chemicals or farming practices, or the response of the Seed to any such conditions. MS TECH shall not be liable for incidental or consequential damages, including loss of profits. MS TECH’S LIABILITY for damages for any cause, including breach of contract, breach of warranty, and negligence, with respect to the sale of seed is LIMITED to the purchase price of the Seed. THIS REMEDY IS EXCLUSIVE. BY ACCEPTANCE OF THIS SEED OR OPENING THIS PACKAGE, USER ACCEPTS THE TERMS HEREIN. IF USER DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, USER MUST RETURN THE ORIGINAL UNOPENED SEED PACKAGE TO MS TECH WITHIN TWENTY DAYS OF RECEIPT AND USER’S SOLE REMEDY SHALL BE FOR REFUND OF THE USER’S ORIGINAL PURCHASE PRICE. MS TECH may modify and amend the terms and conditions of this Agreement without notice and in its sole discretion.

MS TECH has utilized standard industry isolation and purity procedures in the production of seed products. Because of contamination factors beyond MS TECH’s control, MS TECH cannot warrant or represent that MS TECH seed products are free of other transgenic corn traits or transgenic soybean traits. Words and phrases herein shall be construed as in the singular or plural number, according to the context.

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