

## TERMS AND CONDITIONS OF USE

### THIS DOCUMENT CONSTITUTES YOUR AGREEMENT TO ABIDE BY THE FOLLOWING TERMS AND CONDITIONS FOR USE OF THIS WEBSITE

This Site was made possible by a contracted Operator to the USDA and by government, university and industry personnel serving as Contributors of data and information. By accessing this Site you are manifesting your assent to be contractually bound by this Terms and Conditions of Use Agreement for this Site.

**1. Purpose.** This Site is intended to provide information on soybean and other legume crop pests in order to assist you in your field management decision making. The purpose of this Agreement is to bind you and other visitors to the terms and conditions for your use of the Site. The success of this Site depends on the adherence to the terms of this Agreement by you and all other users of this Site. While we will do our best to enforce the terms of this Agreement, we can not warrant or represent that other users will in fact adhere to this Agreement and can not act as insurers or accept any liability for their failure to do so.

**2. Agreement.** You have signified your assent to be contractually bound to the terms of this Agreement by accessing this Site. Your action of use shall have the same legal effect as if this Agreement had been signed personally by you. If you are accessing or using the Site on behalf of an entity other than yourself individually, this Terms and Conditions of Use Agreement applies to the entity the same as if an authorized representative had signed the Agreement on behalf of the entity. To the extent permitted by law, this Agreement is intended to supersede any provisions of applicable law, which might otherwise limit its enforceability or effect because it was entered into electronically.

**3. Access.** By entering into this Agreement, you will be granted a revocable license to access this Site. Your access privileges, however, are also conditioned on your adherence to the terms of this Agreement. The Operator reserves the right to temporarily deny you access to this Site or permanently terminate your access privileges at any time if, in our sole discretion, you have failed to abide by the terms of this Agreement or appear to us likely to do so. By granting you access, we do not obligate ourselves to do so or to maintain this Site, or to maintain it in its present form, and we expressly reserve the right to modify, suspend or terminate your access privileges. You agree and understand that we may, in our sole discretion and without any prior notice, close this Site or deny you access to it. This Site is not intended to be a source for bulk downloads of information or data. Individuals, companies, IP addresses, or blocks of IP addresses who, in effect, deny or decrease service to the general public by generating unusually high numbers of accesses (searches, pages, or hits), whether generated manually or in an automated fashion, may be denied access to the Site without notice.

**4. Privacy.** We agree that we will not knowingly provide any third-party with any personally identifiable information about users of this Site, unless we obtain your permission or are compelled to do so by court order. You agree to respect the privacy rights of other visitors by not publishing or harvesting any personally identifying information obtained or stored at this Site.

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**6. Information Collected Automatically.** When visiting this Site, some information is collected and stored automatically. This means if you do nothing during your visit but browse through the Site, read pages, or download information, we will gather and store certain information about your visit. This information does not identify you personally. We use this information to help us make our Site more useful to visitors by improving the content and functionality of the Site, to learn about the number of visitors to our Site, to understand Site utilization by those users, and the types of technology being used by our visitors.

**7. Other Collected Information.** If you choose to sign up for alerts we do store your personal information such as e-mail address, area of interest, and affiliation in order to provide you with the notification service you requested and to inform you of any changes to the Site. We agree that we will not knowingly provide any third-party with any personally identifiable information about users of this Site, unless we obtain your permission or are compelled to do so by court order. You agree to respect the privacy rights of other visitors by not publishing or harvesting any personally identifying information obtained or stored at this Site.

**8. Links to Other Sites.** Our website has links to many other sources of information. Once you access another site through a link, you are subject to the terms and conditions of use and the privacy policy of that new site. Should you establish a hyperlink to this Site, you must do so in a manner that does not imply any affiliation with or endorsement by the USDA or the Operator of this Site for your enterprise or website.

**9. Fair Use.** Due to the number of users of this Site and the limited resources to serve them, the Operator reserves the right to restrict either the access and/or linking privileges of an individual user to this Site.

**10. No Warranty.** Because of the number of individuals as Contributors and sources of data contributing to this Site, the Operator and Contributors do not make any warranty regarding the accuracy of any information and products.

**11. DISCLAIMER OF WARRANTIES.** IN ORDER TO PROVIDE YOU WITH THIS SERVICE, WE ARE UNABLE TO OFFER ANY WARRANTIES OR MAKE ANY REPRESENTATIONS ABOUT ANY BENEFITS OR OPPORTUNITIES WHICH YOU MAY OBTAIN AT THIS SITE.

**12. DISCLAIMER OF INFORMATIONAL WARRANTIES.** THE OPERATOR AND CONTRIBUTORS OF THIS SITE DO NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES REGARDING THE INFORMATIONAL RIGHTS, SOFTWARE, TRADEMARK(S), OR DATA PROCESSING SERVICES OFFERED BY THE OPERATOR AND CONTRIBUTORS, OR REGARDING ANY PERSON'S ABILITY TO HAVE ACCESS RIGHTS TO THIS SITE MAINTAINED BY THE OPERATOR. THE OPERATOR AND CONTRIBUTORS OF THIS SITE EXPRESSLY DISCLAIM AND THERE IS NO WARRANTY (IMPLIED OR OTHERWISE) AGAINST INTERFERENCE WITH ANY PERSON'S ENJOYMENT OF THE INFORMATIONAL RIGHTS, SOFTWARE, TRADEMARK(S), OR DATA PROCESSING SERVICES OFFERED BY THE OPERATOR AND CONTRIBUTORS, OR REGARDING ANY PERSON'S ABILITY TO HAVE ACCESS RIGHTS TO THE SITE MAINTAINED BY THE OPERATOR, OR AGAINST NONINFRINGEMENT OR MISAPPROPRIATION OF THE SAME. THE OPERATOR AND CONTRIBUTORS OF THIS SITE ONLY MAKE A QUITCLAIM LICENSE OF SUCH RIGHTS AS THE OPERATOR AND CONTRIBUTORS ACTUALLY POSSESS IN THE INFORMATION, PRODUCTS, SOFTWARE, TRADEMARK(S), AND DATA PROCESSING SERVICES OFFERED BY THE OPERATOR OF THIS SITE, OR REGARDING THE OPERATOR'S AND CONTRIBUTORS' GRANT OF ACCESS RIGHTS TO THIS SITE MAINTAINED BY OPERATOR.

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**14. DISCLAIMER OF INTEGRATION WARRANTY.** YOU UNDERSTAND AND AGREE THAT THE INFORMATION AND PRODUCTS PROVIDED TO THIS SITE REQUIRE MANY DIFFERENT PIECES OF HARDWARE, SOFTWARE, STORAGE MECHANISMS, AND COMMUNICATION SERVICES TO WORK TOGETHER, AND THE USDA AND THE OPERATOR EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF SYSTEM INTEGRATION OR THAT THE COMPONENTS, OR ANY OF THEM, WILL FUNCTION PROPERLY TOGETHER, EVEN THOUGH THE USDA, THE OPERATOR AND CONTRIBUTORS, OR THEIR DESIGNEE(S) MAY RECOMMEND CERTAIN PIECES OR COMPONENTS.

**15. DISCLAIMER OF PURPOSE WARRANTY.** YOU ALSO UNDERSTAND AND AGREE THAT THE OPERATOR AND CONTRIBUTORS MAKE NO WARRANTY, AND EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY, THAT THE

INFORMATIONAL RIGHTS, INFORMATIONAL CONTENT, SOFTWARE, TRADEMARK(S), DATA PROCESSING SERVICES, AND SITE ACCESS ABILITIES OFFERED BY THE OPERATOR AND CONTRIBUTORS, OR THE EFFORTS OF THE OPERATOR AND CONTRIBUTORS, WILL FULFILL ANY PARTICULAR PURPOSE OR NEED, OR THE PURPOSE OR NEED OF ANY END USERS.

**16. AS IS.** THE INFORMATIONAL CONTENT, INFORMATION, COMPUTER PROGRAMS, MODEL SIMULATIONS AND ALL OTHER ASPECTS OF THIS SITE ARE PROVIDED "AS IS" AND "WITH ALL FAULTS," AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH THE USER. YOU ACCEPT THE DISCLAIMER OF ANY APPLICABLE IMPLIED WARRANTIES PERTAINING TO THIS SITE AND/OR ANY PRODUCTS DERIVED FROM THIS SITE, AND ACKNOWLEDGE THAT THE OPERATOR AND CONTRIBUTORS DO NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES REGARDING THIS SITE OR PRODUCTS DERIVED FROM THIS SITE. WE HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. THIS SITE IS MADE AVAILABLE TO YOU "AS IS," WITHOUT ANY WARRANTIES WHATSOEVER ABOUT THE NATURE, CONTENT OR ACCURACY (EITHER WHEN POSTED OR AS A RESULT OF THE PASSAGE OF TIME) OF ANY MATERIAL AT THE SITE, AND WITHOUT ANY REPRESENTATIONS OR GUARANTEES. IN ADDITION, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES THAT THIS SITE WILL BE SECURE, ACCESSIBLE CONTINUOUSLY AND WITHOUT INTERRUPTION, OR ERROR FREE.

TO THE EXTENT THAT YOU MIGHT OTHERWISE BELIEVE THAT ANY WARRANTIES, GUARANTEES OR REPRESENTATIONS HAVE BEEN MADE TO YOU, YOU HEREBY AGREE THAT SUCH STATEMENTS, WHETHER MADE ORALLY OR IN WRITING, ARE TO BE CONSTRUED AS MERELY NONBINDING EXPRESSIONS OF POLICY RATHER THAN AFFIRMATIVE REPRESENTATIONS, OBLIGATIONS, GUARANTEES OR WARRANTIES. IN THE EVENT OF ANY CONFLICT BETWEEN THIS SECTION AND OTHER TERMS OR PROVISIONS OF THIS AGREEMENT, THIS SECTION SHALL BE CONSTRUED TO TAKE PRECEDENCE.

**17. LIMITATION OF LIABILITY.** IN ORDER TO PROVIDE YOU WITH THIS SITE, WE ARE UNABLE TO ACCEPT LIABILITY FOR ANY CONDUCT, ACTS OR OMISSIONS OCCURRING AT THIS SITE. IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL, COLLATERAL, OR SPECIAL DAMAGES, INCLUDING ANY LOST PROFITS OR LOST DATA, EVEN IF YOU CLAIM TO HAVE NOTIFIED US ABOUT SUCH DAMAGES, OR FOR ANY CLAIMS BY ANY THIRD PARTIES. NEITHER THE OPERATOR AND CONTRIBUTORS, NOR THEIR SUPPLIERS, LICENSORS, OR AFFILIATES SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, DIRECT, INDIRECT, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS, CROP DAMAGE, YIELD LOSS,

OR DATA RECONSTRUCTION COSTS, EVEN IF THE OPERATOR AND CONTRIBUTORS, AND/OR THEIR SUPPLIERS, LICENSORS, OR AFFILIATES HAVE BEEN ADVISED, KNOW OR SHOULD KNOW OF THE POSSIBILITY OF DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE PROVISION AND/OR USE, PERFORMANCE OR ACCURACY OF THIS SITE AND ANY PRODUCT OR INFORMATION DERIVED FROM THIS SITE BY YOU. IN NO EVENT SHALL THE OPERATOR AND CONTRIBUTORS OF THIS SITE, AS THEIR SUBCONTRACTOR, OR THEIR SUPPLIERS, LICENSORS, OR AFFILIATES HAVE ANY LIABILITY TO YOU, BASED ON ANY LEGAL THEORY OR CAUSE OF ACTION WHATSOEVER, FOR ANY MISSING OR DEFECTIVE PRODUCTS, MATERIAL. OR INFORMATION, OR YOUR USE OF OR RELIANCE UPON ANY INFORMATION FROM THIS SITE, OR ANY PRODUCT OR INFORMATION DERIVED FROM THIS SITE, MATERIAL OR INFORMATION, OR ARISING FROM YOUR PARTICIPATION IN THIS SITE.

**18. Complete Agreement/No Representations.** This Agreement constitutes the entire Agreement between you and us relating to your access to and use of this Site and supersedes any prior or contemporaneous representations or agreements. This Agreement--and only this Agreement--shall govern our legal rights and obligations. Any rights not otherwise expressly granted by this Agreement are reserved by us. We do not make any legal representations or warranties about this Site, either expressly or by implication. The terms of this Agreement are intended to supersede anything else that appeared previously at this Site, now or in the future.

**19. Modifications/ Termination.**

You agree that we may modify the terms of this Agreement in our sole discretion. You agree and understand that we reserve the right to unilaterally terminate your access privileges or otherwise deny you access to this Site in the event that you decline to be bound by any proposed modifications to this Agreement.

**20. Term.**

Unless we terminate your access privileges or you decide to terminate this Agreement, this Agreement shall remain in force so long as you are authorized to access this Site. You agree that in the event you decide to terminate this Agreement or if your access privileges are suspended or terminated you shall continue to be bound by all obligations set forth in this Agreement for a period of five (5) years or until the expiration of all applicable statute of limitations periods, whichever is longer. Except as otherwise provided in this section, you will not be bound by any modifications to this Agreement which may take effect after such time as you or we terminate our contractual relationship.

**21. Indemnification, Jurisdiction and Dispute Resolution.** You agree, at your own expense, to defend us and indemnify us against any liability arising out of or relating in any way to alleged acts or omissions by you which, if true, would constitute a violation of one or more terms or provisions of this Agreement. All disputes arising out of or relating in any way to this Agreement or our ownership, operation or maintenance of this Site shall be resolved exclusively in the appropriate state or federal court located in

Pennsylvania. All such disputes shall be governed by and construed in accordance with the laws of the United States and of the Commonwealth of Pennsylvania as applied to transactions entered into and to be performed wholly within Pennsylvania between Pennsylvania residents. In the event of any breach of this Agreement, you agree that, notwithstanding any other provision of law, we shall be entitled to obtain preliminary injunctive relief enforcing the terms of this Agreement.

**22. Construction.** If any portion of this Agreement is ruled invalid or otherwise unenforceable, it shall be deemed amended in order to achieve as closely as possible the same effect as originally drafted. Any invalid or unenforceable portion should be construed as narrowly as possible in order to give effect to as much of the Agreement as possible.

**23. Good Samaritan Content Policy.** It is the policy of the Operator and Contributors of this Site to not tolerate any acts of intellectual property infringement or violations of U.S. law or to allow for any pornographic, offensive, or obscene or defamatory material to be posted at this Site. We will do our best, in good faith, to purge or otherwise restrict the availability of material that is infringing, offensive, obscene, harassing, or otherwise objectionable. The provisions of this section are intended to implement this policy but are not intended to impose a contractual obligation on the USDA or the Operator of this Site to undertake, or refrain from undertaking, any particular course of conduct.

**24. Complaint Procedures.** If you believe that someone has posted material at this Site which infringes the intellectual property or other rights of third-parties or which is in violation of U.S. law or which is obscene, offensive, defamatory, or otherwise objectionable, we ask you to promptly notify us by email at the following address: mailbox@sbrusa.net. You must use this address if you want to ensure that your complaint is actually received by the appropriate person charged with responding to such communications.

In order to respond as quickly as possible to any complaint, please provide us with as much detail as possible, including (1) the nature of the right infringed or violated (including the registration numbers of any registered copyrights, trademarks or patents allegedly infringed); (2) all facts which lead you to believe that a right has been violated or infringed; (3) the precise location where the offending material is located; (4) any grounds to believe that the person who posted the material was not authorized to do so or did not have a valid defense (including the defense of fair use); and (5) if known, the identity of the person or persons who posted the infringing or offending material.

By lodging a complaint, you agree that the substance of your complaint shall be deemed to constitute a representation made under penalty of perjury under the laws of the United States. In addition, you agree, at your own expense, to defend us and indemnify us against any liability which we may incur by our response to your complaint.

We expect visitors to take responsibility for their own actions. Accordingly, we can not assume liability for any acts of third-parties which take place at this Site. By this Agreement, you acknowledge that in establishing a complaint procedure we are taking on the role of a

Good Samaritan and, in order to allow us to do our best, in good faith, to purge or otherwise restrict the availability of material that is infringing, obscene, offensive, or otherwise objectionable, you agree to waive any claims or remedies which you might otherwise be able to make against us under any theory of law (including, but not limited to, intellectual property laws) arising out of or relating in any way to the content at this Site.

You agree that we have the right (but not the obligation) to investigate any complaint received and, at any time and for any reason, to remove any material or information which you post to this Site, with or without your permission, and with or without cause, in our sole discretion. By reserving this right, we do not undertake any responsibility in fact to remove content posted online, whether or not a complaint has been received.

You expressly agree that we may remove, disable or restrict access to or the availability of any material or information from this Site (including, but not limited to, material or information which you have posted or stored) which we believe, in good faith and in our sole discretion, to violate the terms of this Agreement (whether or not we are in fact correct in our assessment) or which is the subject of a Notification duly sent to us pursuant to the Digital Millennium Copyright Act. If you believe that we have acted mistakenly with respect to certain material or information, you may contact us by email at mailbox@sbrusa.net, in which case we may investigate the matter further. We reserve the right, however, to take no further action. Posting or storing material at this Site is a privilege, not a right. Under no circumstances may we be held liable for removing, disabling or restricting access to or the availability of material.

**25. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to its choice of law rules.