

71711-17

4/6/2009

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Ms. Shannon Yanocha
Manager, Regulatory Affairs
Nichino America, Inc.
4550 New Linden Hill Road, Suite 501
Wilmington, DE 19808

APR 06 2009

Dear Ms. Yanocha:

Subject: Artisan Fungicide
EPA Reg. No. 71711-17
Your submission of September 19, 2008
OPPIN Decision Number D401954

The amendment referred to above, submitted in connection with registration under section (3) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is acceptable provided that you make the following changes:

Page 2 - Place the text "Follow manufacturer's instructions . . . separately from other laundry." in a box and label the box "User Safety Requirements."

Page 2 - "User Safety Recommendations."

Add the following two bullets to the User Safety Recommendations box:

- Users should remove clothing/ PPE immediately if pesticide gets inside, then wash thoroughly and put on clean clothing.
- Users should remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading.

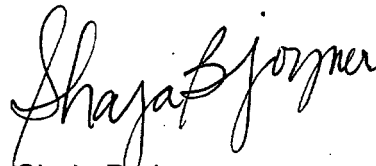
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In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance Assurance.

As an alternative, you may refer consumers to the company's phone number or email address.

If you have any questions, please contact Lisa Jones of my team at (703) 308-9424 or jones.lisa@epa.gov.

Sincerely,



Shaja B. Joyner
Product Manager (20)
Fungicide Branch
Registration Division (7505P)

Enclosure: Stamped label

Nichino America, Inc.

ARTISAN® Fungicide

For Use On Peanuts

ACTIVE INGREDIENT:

Flutolanil: N-[3-(1-methylethoxy) phenyl]-2-(trifluoromethyl) benzamide..... 32.0 %

Propiconazole: 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole..... 6.0 %

OTHER INGREDIENTS: 62.0 %

TOTAL..... 100.0 %

Contains 3.0 lb ai flutolanil and 0.6 lb ai propiconazole per gallon

EPA Reg. No. 71711-17

EPA Est. No. 37429-GA-2

KEEP OUT OF REACH OF CHILDREN CAUTION

FIRST AID

If in eyes

- Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.
- Call a poison control center or doctor for treatment advice.

HOT LINE NUMBER

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-800-348-5832 for emergency medical treatment information. In case of fire or spills, information may be obtained by calling 1-800-424-9300.

See (back, side, inside) label for First Aid and Precautionary Statements and attached booklet for complete Directions for Use.

Net Contents: 2.5 gal

Active Ingredient Made in Japan; Formulated and Packaged in U.S.A for

Nichino America, Inc.
4550 New Linden Hill Road, Suite 501
Wilmington, DE 19808

PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS AND DOMESTIC ANIMALS
CAUTION

Causes moderate eye irritation. Avoid contact with eyes or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.

Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for Category A on an EPA chemical resistance selection chart.

Applicators and other handlers must wear:

- Long-sleeved shirt and long pants
- Chemical-resistant gloves, such as barrier laminate or viton.
- Shoes plus socks

Follow manufacturer's instructions for cleaning/maintaining Personal Protective Equipment (PPE). If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

User Safety Recommendations

Users should: Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.

ENGINEERING CONTROLS STATEMENT

When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240(d)(4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS.

ENVIRONMENTAL HAZARDS

This product is toxic to fish. For terrestrial uses, do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water by cleaning of equipment or disposal of equipment washwaters.

IMPORTANT – Read the entire Directions for Use and Disclaimer of Warranties before using this product.

ACCEPTED
with COMMENTS
In EPA Letter Dated:
APR 06 2009

**Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.**

71711-17

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during restricted entry interval (REI) of 12 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is:

- Coveralls
- Chemical-resistant gloves, such as barrier laminate or viton
- Socks and shoes
- Protective eyewear

GENERAL INFORMATION

ARTISAN® is a peanut fungicide for use on soil-borne and foliar diseases. ARTISAN provides control of early and late leaf spot disease as well as control of white mold (Southern blight) caused by *Sclerotium rolfsii* and limb rot caused by *Rhizoctonia solani*.

FAILURE TO FOLLOW DIRECTIONS AND PRECAUTIONS ON THIS LABEL MAY RESULT IN CROP INJURY, POOR DISEASE CONTROL, AND/OR ILLEGAL RESIDUES. UNDER CERTAIN CONDITIONS CONDUCIVE TO EXTENDED INFECTION PERIODS, ADDITIONAL FUNGICIDE APPLICATIONS BEYOND THE NUMBER ALLOWED BY THIS LABEL MAY BE NEEDED. UNDER THESE CONDITIONS USE ANOTHER FUNGICIDE REGISTERED FOR THE CROP/DISEASE APPEARING ON THIS LABEL.

RESISTANCE MANAGEMENT

The propiconazole component of ARTISAN belongs to the sterol inhibitor class. Because resistance development cannot be predicted, the use of this product should conform to resistance management strategies established for the crop and use area. Such strategies may include rotating and/or tank mixing with products having different modes of action; or limiting the total number of applications per season. Nichino America, Inc. encourages responsible product stewardship to ensure effective long-term control of the fungal diseases on this label.

SPRAY EQUIPMENT

Thorough coverage is necessary to provide good disease control. Applications using sufficient water volume to provide thorough and uniform coverage generally provide the most effective disease control. For ground application equipment, a minimum of 10 gals./A is recommended. For aerial application equipment, a minimum of 5 gals./A is recommended. Equip sprayers with nozzles that provide accurate and uniform application. Be certain that nozzles are the same size and uniformly spaced across the boom. Calibrate sprayer before use. Use a pump with the capacity to: (1) maintain a minimum of 35 psi at nozzles, and (2) provide sufficient agitation in the tank to keep the mixture in suspension - this requires recirculation of 10% of the tank volume per minute. Use a jet agitator or liquid sparge tube for agitation. Use screen to protect the pump and to prevent nozzles from clogging. Screens placed on the suction side of the pump should be **16-mesh or coarser**. Do not place a screen in the recirculation line. Use 50-mesh or coarser screens between the pump and boom, and where required, at nozzles. Check nozzle manufacturers' recommendations. For information on spray equipment and calibration, consult sprayer manufacturers and state recommendations. For specific local directions and spray schedules, consult the current state agricultural experiment station recommendations.

MIXING PROCEDURES

Prepare no more spray mixture than is needed for the immediate operation. Thoroughly clean spray equipment before using this product. Vigorous agitation is necessary for proper dispersal of the product. Maintain maximum agitation throughout the spraying operation. Do not let the spray mixture stand overnight in the spray tank. Flush the spray equipment thoroughly following each use and apply the rinsate to a previously treated area.

ARTISAN Alone: Add $\frac{1}{2}$ of the required amount of water to the mix tank. With the agitator running, add the entire contents in the ARTISAN container to the tank. Continue agitation while adding the remainder of the water. Begin application of the solution after the ARTISAN has completely dispersed into the mix water. Maintain agitation until all of the mixture has been applied.

ARTISAN Tank Mixtures: Add $\frac{1}{2}$ of the required amount of water to the mix tank. Start the agitator running before adding any tankmix partners. In general, tankmix partners should be added in this order: products packaged in water-soluble packaging, wettable powders, wettable granules (dry flowables), liquid flowables (such as ARTISAN), liquids and emulsifiable concentrates. Always allow each tank mix partner to become fully dispersed before adding the next product. Provide sufficient agitation while adding the remainder of the water. Maintain agitation until all the mixture has been applied.

Note: When using ARTISAN in tank mixtures, all products in water-soluble packaging should be added to the tank before any other tankmix partner, including ARTISAN. Allow the water-soluble packaging to completely dissolve and the product(s) to completely disperse before adding any other tankmix partner to the tank. If using in a tank mixture, observe all directions for use, crop/sites, use rates, dilution ratios, precautions, and limitations appearing on the tankmix product label. No label dosage rate should be exceeded, and the most restrictive label precautions and limitations should be followed. This product should not be mixed with any product which prohibits such mixing. Tank mixtures or other applications of products referenced on this label are permitted only in those states in which the referenced products are labeled. ARTISAN is compatible with most insecticide, fungicide, and foliar nutrient products. However, the physical compatibility with tankmix partners should be tested before use. To determine the physical compatibility with other products, use a jar test, as described below:

Using a quart jar, add the proportionate amounts of the products to 1 qt. of water. Add wettable powders and water-dispersible granular products first, then liquid flowables, and emulsifiable concentrates last. After thoroughly mixing, let stand for at least 5 minutes. If the combination remains mixed or can be remixed readily, it is physically compatible. Once compatibility has been proven, use the same procedure for adding required ingredients to the spray tank.

THE CROP SAFETY OF ALL POTENTIAL TANK MIXES INCLUDING ADDITIVES AND OTHER PESTICIDES ON ALL CROPS HAS NOT BEEN TESTED. BEFORE APPLYING ANY TANK MIXTURE NOT SPECIFICALLY RECOMMENDED ON THIS LABEL, THE SAFETY TO THE TARGET CROP SHOULD BE CONFIRMED.

APPLICATION INSTRUCTIONS

Ground Application: Apply ARTISAN by ground equipment in a minimum of 10 gals of water per acre.

Aerial Application: Apply by fixed-wing aircraft equipment in a minimum of 5 gals of water per acre. Avoid application under conditions where uniform coverage cannot be obtained or where excessive spray drift may occur. Do not apply directly to humans or animals.

Chemigation: ARTISAN may be applied alone or in combination with other products which are registered for application through irrigation systems. Apply this product only through center pivot, solid set, hand move, or moving wheel irrigation systems. Do not apply this product through any other type of irrigation system. Crop injury, lack of performance, or illegal pesticide residues in the crop can result from non-uniform distribution of treated water. If you have questions about calibration, you should contact State Extension Service specialists, equipment manufacturers, or other experts. Do not connect an irrigation system used for pesticide application to a public water system unless the pesticide label-prescribed safety devices for public water systems are in place. A person knowledgeable of the chemigation system and responsible for its operation, or under the supervision of the responsible person, shall shut the system down and make necessary adjustments should the need arise.

Using Water from Public Water Systems: DO NOT APPLY ARTISAN THROUGH ANY IRRIGATION SYSTEM PHYSICALLY CONNECTED TO A PUBLIC WATER SYSTEM. Public water system means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. ARTISAN may be applied through irrigation systems which may be **supplied** by a public water system **only** if the water from the public water system is discharged into a reservoir tank prior to pesticide introduction. There shall be a complete physical break (air gap) between the outlet end of the fill pipe and to top or overflow rim of the reservoir tank of at least twice the inside diameter of the fill pipe. Before beginning chemigation, always make sure that the air gap exists and that there is no blockage of the overflow of the reservoir tank.

Any irrigation system using water supplied from a public water system must also meet the following requirements:

Operating Instructions For All Recommended Types Of Irrigation Systems

1. The system must be calibrated to uniformly apply the rates specified. If you have questions about calibration, you should contact State Extension Service specialists, equipment manufacturers, or other experts.
2. The system must contain a functional check valve, vacuum relief valve, and low pressure drain appropriately located on the irrigation pipeline to prevent water source contamination from backflow.
3. The pesticide injection pipeline must contain a functional, automatic, quick-closing check valve to prevent the flow of fluid back toward the injection pump.
4. The pesticide injection pipeline must also contain a functional, normally closed, solenoid-operated valve located on the intake side of the injection pump and connected to the system interlock to prevent fluid from being withdrawn from the supply tank when the irrigation system is either automatically or manually shut down.
5. The system must contain functional interlocking controls to automatically shut off the pesticide injection pump when the water pump motor stops.
6. The irrigation line or water pump must include a functional pressure switch which will stop the water pump motor when the water pressure decreases to the point where pesticide distribution is adversely affected.
7. Systems must use a metering pump, such as a positive displacement injection pump (e.g., diaphragm pump) effectively designed and constructed of materials that are compatible with pesticides and capable of being fitted with a system interlock.
8. Do not apply when wind speed favors drift beyond the area intended.

Chemigation Calibration and Application Instructions

ARTISAN should be applied under the schedule specified in the specific crop use recommendations, not according to the irrigation schedule unless the events coincide.

In general, set the equipment to apply the minimum amount of water per acre. Run the system at 85 - 90% of the manufacturer's maximum rated travel speed.

The following calibration and application techniques are provided for user reference, but do not constitute a warranty of fitness for application through sprinkler irrigation equipment. Users should check with state and local regulatory agencies for potential use restrictions before applying any agricultural chemical through sprinkler irrigation equipment.

Center Pivot Irrigation Equipment

Notes: (1) Use only drive systems which provide uniform water distribution. (2) Do not use end guns when chemigating ARTISAN through center pivot systems because of non-uniform application. (3) Plug the first nozzle closest to the well head to protect the water source.

1. Determine the size of the area to be treated.
2. Determine the time required to apply $\frac{1}{4}$ - $\frac{1}{2}$ inch water over the area to be treated when the system and injection equipment are operated at normal pressures as recommended by the equipment manufacturer. Run the system at 80 - 95% of the manufacturer's rated maximum travel speed.
3. Using water, determine the injection pump output when operated at normal line pressure.
4. Determine the amount of ARTISAN, and any tankmix partners, required to treat the area covered by the irrigation system.
5. Add the required amount of ARTISAN, any tankmix partners, and sufficient water to meet the injection time requirements to the solution tank. (See **Mixing Procedures** section of this label).
6. Make sure the system is fully charged with water before starting injection of the ARTISAN solution. Time the injection to last at least as long as it takes to bring the system to full pressure.
7. Maintain constant agitation in the solution tank during the injection period.
8. Inject the specified amount of ARTISAN per acre continuously for one complete revolution of the system.
9. Stop the injection equipment after treatment is completed. Continue to operate the system until the ARTISAN solution has cleared all of the sprinkler heads.
10. Allow time for all lines to flush the pesticide through all nozzles before turning off irrigation water.

Solid Set, Hand Move, and Moving Wheel Irrigation Equipment

1. Determine the acreage covered by the sprinklers.
2. Fill injector solution tank with plain water and calibrate the flow rate of the system to deliver the contents of the tank over a 20 - 40 minute time interval.
3. Determine the amount of ARTISAN required to treat the area covered by the irrigation system.
4. Add the required amount of ARTISAN, and any other tank mix partners, into the same quantity of water used to calibrate the injection period. (See **Mixing Procedures** section of this label).
5. Operate the system at the same pressure and time interval established during the calibration.
6. Inject specified amount of ARTISAN per acre for: (1) a 20 - 40 minute period at the end of a regular irrigation set, or, (2) as a 20 - 40 minute injection as a separate application not associated with a regular irrigation to maximize retention of the fungicide by the foliage.
7. Stop injection equipment after treatment is completed. Continue to operate the system until the ARTISAN solution has cleared the last sprinkler head. To ensure lines are flushed and free from remaining pesticides, a dye indicator may be injected into the lines to mark the end of the application period.

Recommendations to Avoid Spray Drift

Do not make applications when conditions favor drift beyond the target application area. When drift may be a problem, take measures to reduce drift, including:

- 1) Do not spray if wind speeds are or become excessive. Do not spray if wind speed is 15 mph or greater. If nontarget crops are located downwind, use caution when spraying if wind is present. Do not spray if winds are gusty.
- 2) Use caution when conditions are favorable for drift (high temperatures, drought, low relative humidity).
- 3) Do not apply when a temperature inversion exists. If inversion conditions are suspected, consult with local weather services before making an application.

USE DIRECTIONS

PEANUTS - ARTISAN Alone

ARTISAN, when used as a foliar application in a preventive disease control program, will provide effective control of white mold (Southern stem rot, *Sclerotium rolfsii*), the limb/pod rot complex (*Rhizoctonia solani*), early leaf spot (*Cercospora arachidicola*) and late leaf spot (*Cercosporidium personatum*).

Dosage Rate	Comments
26 fl oz/acre (2 to 3 applications per season)	Make first application at approximately 45 to 60 days after planting depending on disease development. Initial application may be prior to or at first sign of disease. Make sequential applications as needed at 21-30 day intervals, depending on severity of disease. An application of a leaf spot fungicide should be made 14 days after the initial application of ARTISAN. A regularly scheduled leaf spot program should both precede and follow the ARTISAN applications.
32 fl oz/acre (2 applications per season)	In fields where known, heavy infestations of white mold or other diseases listed on this label have occurred, a higher rate may be applied two times. Make first application approximately 45 to 60 days after planting depending on disease development. Initial application may be prior to or at first sign of disease. Make second application 21-30 days later, depending on severity of disease. An application of a leaf spot fungicide should be made 14 days after the initial application of ARTISAN. A regularly scheduled leaf spot program should both precede and follow the ARTISAN applications.

PEANUTS - ARTISAN Plus Chlorothalonil 4-Application Program for White Mold + Foliar Disease Control

Combinations of ARTISAN with products containing chlorothalonil may be used for white mold plus early and late leaf spot control. Apply 13 to 21 fl oz per acre of ARTISAN as a tank mixture with 0.75 lb active ingredient chlorothalonil per acre. Use the higher rate in fields known to have high soil-borne disease incidence. Use the following table as a guide to determine the appropriate amount of chlorothalonil to use in the tank mixture. Begin applications approximately 45-60 days after planting depending on disease development. Initial application may be prior to or at first sign of disease. Make sequential applications as needed at 10 to 14 day intervals. A regularly scheduled leaf spot program should both precede and follow the ARTISAN applications. ARTISAN plus chlorothalonil also may be used in State Agricultural Extension advisory (disease forecasting) programs which recommend application timing based on environmental factors favorable for disease development.

Important: Use the following table as a guide to determine the amount of product needed for the recommended tank mix ratios of ARTISAN with various chlorothalonil formulations. To avoid possible illegal residues, (1) do not apply more than 84 fl oz of ARTISAN per season; (2) do not apply within 40 days of harvest and (3) Do not feed hay or threshings from rotational crops of cotton planted following the harvest of treated peanuts (more than 20 fl oz per acre) and do not allow cattle to graze cotton forage in these previously treated peanut fields.

Number of acres to be treated	Amount of ARTISAN required for treated area	Amount of chlorothalonil product required for treated area by formulation	
		6 lbs. a.i. per gallon	4.17 lbs. a.i. per gallon
1	13 - 21 fl oz (1 pt + 5 oz)	1 pint	1.5 pints
5	65 - 105 fl oz (6 pt + 9 oz)	5 pints	7.5 pints
10	8 pt + 2 oz - 13 pt + 2 oz	10 pints	15 pints

50	40 pt + 10 oz - 65 pt + 10 oz	50 pints	75 pints
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USE PRECAUTIONS

Do not apply more than 84 fl oz ARTISAN per acre per season. Do not apply within 40 days of harvest. Do not allow cattle to graze cotton rotational crop forage in peanut fields previously treated with ARTISAN.

Do not plant rotational crops other than peanuts, rice, or potatoes for 12 months following the last application of ARTISAN with the following exceptions:

- Soybeans or wheat may be planted 30 days after the last application.
- Leafy vegetables (lettuce, spinach, celery) or small grains other than wheat (such as barley, oats, rye) may be planted 150 days or more following the last application.
- Corn (such as field, sweet, or popcorn), cotton, or sorghum may be planted 240 days or more following the last application.

STORAGE AND DISPOSAL

Do Not Contaminate Water, Food, or Feed by Storage or Disposal

PESTICIDE STORAGE: Store in the original container. Store in a cool, dry place. Using label instructions, apply the entire contents of this container to the target crop once the container is opened. Protect from excessive heat.

PESTICIDE DISPOSAL: Pesticide wastes may be toxic. Improper disposal of unused pesticide, spray mixture, or rinse water is a violation of federal law. If these wastes cannot be used according to label instruction, contact your State Pesticide or Environmental Control Agency, or the Hazardous Waste representative at the nearest EPA Regional Office for guidance in proper disposal methods.

CONTAINER DISPOSAL: Nonrefillable container. DO NOT reuse or refill this container. Triple rinse (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container ¼ full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then, offer for recycling, if available, or reconditioning, if appropriate, or puncture and dispose of in a sanitary landfill, or by incineration, or, if allowed by State or local authorities, by burning. If burned, stay out of smoke.

IMPORTANT: READ BEFORE USE

By using this product, user or buyer accepts the following conditions, warranty, disclaimer of warranties and limitations of liability.

CONDITIONS: The directions for use of this product are believed to be accurate and must be followed carefully. However, because of extreme weather and soil conditions, use methods and other factors beyond the control of Nichino America, Inc. (NAI), it is impossible for NAI to eliminate all risks associated with the use of this product. As a result, crop injury or ineffectiveness is always possible. To the extent consistent with applicable law, all such risks are assumed by the user or buyer.

DISCLAIMER OF WARRANTIES: TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WHICH EXTEND BEYOND THE STATEMENTS MADE ON THIS LABEL. No agent of NAI is authorized to make any warranties beyond those contained herein or to modify the warranties contained herein. To the extent consistent with applicable law, NAI disclaims any liability whatsoever for incidental or consequential damages, including, but not limited to, liability arising out of breach of contract, express or implied warranty (including warranties of merchantability and fitness for a particular purpose), tort, negligence, strict liability or otherwise.

LIMITATIONS OF LIABILITY: TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE USER OR BUYER FOR ANY AND ALL LOSSES, INJURIES OR DAMAGES RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT, WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE PAID, OR AT THE ELECTION OF NICHINO AMERICA, THE REPLACEMENT OF PRODUCT.