

1. **TERMS OF SALE.** These Terms and Conditions of Sale (“Terms”) shall apply to all sales of product (“Product”) by Asplundh Tree Expert Co., Arborchem Products Division, (“Seller”). All purchases of Product are expressly limited to and conditioned upon acceptance of these Terms, regardless of the manner in which purchases are made or documented. Unless expressly agreed to by Seller in a writing signed by Seller, any additional or conflicting terms and conditions contained on, attached to or referenced by any of Seller’s customer’s (“Buyer’s”) purchase related documentation (collectively, “Purchase Orders”), or other prior or later communication from Buyer to Seller, shall have no effect on the purchase of any such Product by Buyer from Seller and are expressly rejected by Seller. Buyer’s commencement of performance (including ordering, purchasing or taking delivery of Product) shall in all cases constitute Buyer’s unqualified and unconditional acceptance of these Terms.
2. **TITLE AND RISK OF LOSS.** Unless otherwise agreed in writing executed on behalf of Buyer and Seller, (1) all Product shall be shipped F.O.B. Seller’s designated shipping point (in accordance with the Uniform Commercial Code); and (2) title to Product and risk of loss, damage and contamination of Product passes to Buyer when Seller places Product with a common carrier at the shipping point and Product shall be deemed “delivered” at such time.
3. **TAXES AND DUTIES.** Unless otherwise agreed in writing, all Product prices are exclusive of taxes, customs, duties, transportation and insurance.
4. **FURTHER HANDLING AND USE.** Seller shall not be liable for, and Buyer shall indemnify, defend, release and hold harmless Seller, its affiliates and their respective officers, directors, employees, representatives and agents (“Indemnitees”) from and against, any and all claims, losses, liabilities, costs, taxes, customs, duties, and expenses (including attorneys’ fees) (“Claims”) in any way arising out of or resulting from the handling, use, manufacture, processing, alteration, distribution, sale or marketing of Product, or any other action or inaction with regard to the Product, in each case after the delivery thereof to Buyer; provided however, that Buyer shall not be liable to Seller for damages directly caused by the sole negligence of Seller. Buyer’s obligations under this Section shall survive the termination, cancellation or expiration of all orders delivered under these Terms and the cessation of any business transactions between Seller and Buyer.
5. **DELIVERIES.** (a) The parties will cooperate to the extent reasonable to coordinate times for deliveries hereunder, and Buyer will give reasonable prior notice as to quantities and scheduling desired, provided that all shipping dates are approximate and not guaranteed. Buyer shall unload and return all transportation equipment promptly so that no demurrage or other expense or loss resulting from delay shall be incurred and will comply with all instructions, if any, that Seller, carrier or its agents may give for return of such equipment. Seller and its affiliates may refuse to load/unload, transfer or handle any Product under any conditions either deems, in its sole discretion, unsafe, including, but not limited to, conditions caused by drivers, personnel, equipment, procedures, and/or weather conditions.
6. **EXPORT CONTROL REGULATIONS.** All Products sold by Seller are subject to the export control laws of the USA, and Buyer agrees not to divert or resell the Products contrary to such laws. If any license or consent of any government or other authority is required for the acquisition, carriage or use of product by Buyer, Buyer will obtain the same at its expense and provide evidence of the same to Seller on request. Failure to do so will entitle Seller to withhold or delay shipment, but failure to do so will not entitle Buyer to withhold or delay payment of the price therefor. Any expenses or charges incurred by Seller resulting from such failure will be paid for by Buyer within ten (10) days of receipt of Seller’s written request.
7. **ANTICORRUPTION.** Buyer understands and agrees that they will comply with all applicable anti-bribery and anti-corruption laws, regulations, rules and requirements including the United States Foreign Corrupt Practices Act (“FCPA”), and any other applicable laws, regulations, rules and requirements. Should Seller reasonably or in good faith believe that there may have been a breach of any representation or warranty of this section of the Terms, the parties shall cooperate in good faith to determine whether such a breach has occurred. If Seller determines reasonably and in good faith that there has been a breach of any such representation or warranty, Seller shall have the right unilaterally to terminate all sales immediately and/or to take other appropriate action in accordance with these Terms.
8. **COMPLIANCE WITH LAW.** (a) “Laws” shall mean all applicable laws, treaties, conventions, directives, statutes, ordinances, rules, regulations, licensing requirements, orders, writs, judgments, injunctions or decrees of any governmental authority having jurisdiction pertaining to these Terms.
 - a. Buyer will be responsible for compliance with all Laws applicable to Product once the Product has been delivered in accordance with this Agreement. Failure to do so will entitle Seller to withhold or delay shipment.
 - b. Except as permitted under U.S. Laws, Product will not be sold, supplied or delivered by the Buyer directly or indirectly to any party or destination that, at the time of such sale, supply or delivery, is declared an embargoed/restricted party or destination by the government of the United States of America or by the United Nations. Within two (2) days after Seller’s request, Buyer will provide Seller with appropriate documentation to verify the final destination of any Product delivered hereunder.
9. **INSPECTION.** Immediately upon Product receipt, Buyer shall, at its sole cost and expense inspect, test and evaluate the Product to ensure that it is suitable for all of Buyer’s purposes and that it has received all required quantities. No later than five (5) days after Buyer’s receipt of Product and before the use, disposition, processing, or other change from the original condition of any part of the Product (“Use” or as a verb “Used”), Buyer shall notify Seller in writing if Product is found deficient, defective or short in any respect. Buyer’s failure to give timely written notice to Seller of any deficiency, defect or shortage within such five (5) day period shall constitute an unqualified acceptance of the Product and a waiver by Buyer of all claims with respect thereto.
10. **WEIGHT.** In case of bulk shipments, Seller’s weights shall govern unless finally established to be incorrect.
11. **USE AND HANDLING.** Buyer shall use the Product only as intended. Buyer shall ensure that proper procedures are followed for handling, storage, use, application and/or disposal of the Product. Buyer shall comply with all manufacturers’ directions, rules, procedures, precautions and/or controls for the Product. Buyer shall ensure that any individual handling or using the Product are properly trained and licensed. Buyer

shall indemnify, defend, release and hold harmless the Indemnitees from and against, any and all Claims in any way arising out of or resulting from the handling, storage, use, application or disposal of the Product, or any other action or inaction with regard to the Product, in each case after the delivery thereof to Buyer.

- 12. LIMITED WARRANTY.** Seller warrants only, at the time of delivery, that: (i) Product shall conform to the specification agreed in writing by Seller and Buyer, or if no written agreement as to specification, Seller's then current specifications for the specific Product sold hereunder; and (ii) Seller will deliver good title to the Product and that the Product shall be delivered free of liens or encumbrances. Buyer, having the expertise and knowledge in the intended Use of Product sold hereunder and any Use or other product or material made therefrom, assumes all risk and liability for results obtained by the Use of Product, whether Used singly or in combination with other substances or in any process. EXCEPT AS SET FORTH IN THIS SECTION, SELLER SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS OF THE PRODUCT FOR A PARTICULAR PURPOSE, CONDITION OR QUALITY OF THE PRODUCT, ANY TRADE USAGE OR DEALING. ANY DETERMINATION OF THE SUITABILITY OF THE PRODUCT FOR THE USE CONTEMPLATED BY BUYER IS BUYER'S SOLE RESPONSIBILITY.
- 13. LIMITATION OF LIABILITY AND LIMITED REMEDIES. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL SELLER BE LIABLE TO BUYER FOR ANY LOST OR PROSPECTIVE PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST EARNINGS, OR BUSINESS INTERRUPTION, WHETHER OR NOT BASED UPON SELLER'S NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, IN TORT OR ANY OTHER CAUSE OF ACTION.** Buyer's exclusive remedy vis-à-vis Seller or any cause of action under the Agreement, including for failure to deliver or late delivery, is, at Seller's option limited to (i) replacement of the non-conforming Product; or (ii) refund to Buyer of the portion of the purchase price attributable to such non-conforming Product. In no event shall Seller's cumulative liability exceed the price of Product sold which was the direct cause of the alleged loss, damage or injury. IN ANY EVENT, BUYER AGREES THAT THE RETURN OF THE FULL SALES PRICE FOR THAT PRODUCT SOLD WHICH WAS THE CAUSE OF THE ALLEGED LOSS, DAMAGE OR INJURY WILL PREVENT THE FOREGOING REMEDIES FROM FAILING OF THEIR ESSENTIAL PURPOSE, AND THAT SUCH REMEDY IS FAIR AND ADEQUATE.
- 14. PAYMENT TERMS/CREDIT.** (a) Buyer shall pay all invoices, without deduction, in US currency within thirty (30) days. Buyer shall pay interest at a rate of one and a half percent (1½%) per month compounded monthly, or the maximum rate allowed by Law, whichever is greater, on the outstanding amount of any unpaid invoice beginning on the day after the payment due date. (b) Seller makes no assurance or guarantee regarding any amount of credit or the continuation of such credit to Buyer. If Seller determines that the creditworthiness or future performance of Buyer is impaired or unsatisfactory, Seller may in addition to its other rights and remedies (i) suspend deliveries of Product, (ii) or require prepayment by wire transfer of immediately available funds at least three (3) days prior to a scheduled shipment of Product. (c) Seller reserves the right, at any time, to Set-off against any amount that Seller and/or its affiliates owe to Buyer and/or its affiliates under any agreement(s) between such parties. "Set-off" means set-off, offset, combination of accounts, netting of dollar amounts of monetary obligations, right of retention or withholding or similar action exercised by Seller.
- 15. DEFAULT.** Upon the occurrence of any of the following events: (i) the failure by Buyer to provide payment when due, and such failure shall remain uncured for a period of five (5) days; (ii) the failure of Buyer to perform any other required obligation and such failure is not excused or cured within ten (10) days after written notice thereof; or (iii) the occurrence of a Bankruptcy Event, then Seller, in its sole discretion and without prior notice to Buyer, may do any one or more of the following: (a) suspend its performance; (b) cancel any orders or other sales agreed between Buyer and/or its affiliates and Seller and/or its affiliates, whereby any and all obligations of Buyer, including payments or deliveries due, will, at the option of Seller, become immediately due and payable or deliverable, as applicable; and/or (c) Set-off against any amount that Seller and its affiliates owes to Buyer and its affiliates under any agreement between such parties. The foregoing rights, shall be cumulative and alternative and in addition to any other rights or remedies to which Seller may be entitled including at Law or in equity. In addition, Seller shall be entitled to recover from Buyer all court costs, attorneys' fees and expenses incurred by Seller in connection with Buyer's default, and interest on past due amounts at the rate specified in Section 13 hereof. "Bankruptcy Event" means the occurrence of any of the following events with respect to Buyer or any Performance Assurance provider for Buyer: (i) filing of a petition or otherwise commencing, authorizing or acquiescing in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law; (ii) making of an assignment or any general arrangement for the benefit of creditors; (iii) having a bankruptcy petition filed against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing; (iv) otherwise becoming bankrupt or insolvent (however evidenced); (v) having a liquidator, administrator, custodian, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (vi) being generally unable to pay its debts as they fall due.
- 16. EXCUSED PERFORMANCE.** (a) Force Majeure: The parties will be excused from their respective performances hereunder (except Buyer's payment obligations) if performance is prevented or delayed by any acts of God, fire, explosion, flood, unusually severe or abnormal weather for the site, riots or other civil disturbances, wars, acts of terrorism, actions of governments, voluntary or involuntary compliance with any Law or request of any governmental authority, strikes, lockouts or other labor difficulties, failure of usual sources of raw materials or other sources of supply, failure of computer systems to operate properly, destruction or loss of electronic records or data, failure of mechanical or chemical function or equipment normally used by Seller for manufacturing, handling or delivering of Product, or internally produced intermediates used in manufacture of any of the Product, plant shutdowns, any necessity to not operate, or to reduce operation of, equipment in order to protect the safety of people or to protect the environment, or any circumstances beyond the reasonable control of the party seeking excuse from performance ("force majeure"). Promptly after a party determines a force majeure condition exists, that party will notify the other of the circumstances and consequences claimed and will use reasonable means to remove the cause(s) in question. Neither party will be obligated to settle any demands of, or disputes with, laborers; nor will Buyer be excused from paying monies due or complying with Seller's credit terms. Seller may apportion any reduced quantity of Product among itself and its customers and affiliates at its sole discretion. Under no circumstances will Seller be obligated to ship product from alternate facilities or obtain Product for delivery hereunder other than from its designated source(s) of supply, or if none is so designated by Seller, from its usual, customary and/or most recent source(s) of supply.

17. **CONFIDENTIALITY.** Buyer shall treat as confidential all information supplied by Seller, and not in the public domain, in connection with the Agreement, including, but not limited to: price, commercial terms, force majeure allocations, specifications, and other technical, business or sales data, or statements of work (collectively referred to as the “Confidential Information”). Buyer shall (i) limit use of aforementioned Confidential Information only to the performance of the Agreement, and (ii) limit the disclosure of the Confidential Information to those of its employees necessary for the performance of the Agreement, unless prior written consent has been granted by Seller to permit other use or disclosure. Buyer shall, upon request or upon expiration, termination or cancellation of the Agreement, promptly return all documents previously supplied, destroy any and all copies that were reproduced, and send written confirmation to Seller certifying such destruction. Neither Buyer nor anyone acting at its direction or under its control will reverse engineer or otherwise analyze the composition of the Product or any product in which the Product has been incorporated, and Buyer will not supply any portion of Product samples to any person or entity for such purpose.
18. **TRADEMARKS.** Except as may be contained in a separate trademark license, the sale of Product (even if accompanied by documents using a trademark or trade name) does not convey a license, express or implied, to use any trademark or trade name and Buyer shall not use a trademark or trade name of Seller or its affiliates or the manufacturer in connection with the Product.
19. **SUCCESSOR AND ASSIGNS.** Buyer may not assign any interest in, nor delegate any obligation under these Terms, by operation of Law or otherwise, without Seller’s prior written consent. Any assignment or attempted assignment in contravention of the foregoing shall be null and void, and shall permit Seller, in addition to any other rights that it may have, to terminate all Purchase Orders.
20. **GOVERNING LAW/VENUE FOR DISPUTES.** The validity, performance, construction, and effect and all matters arising out of or relating to the Agreement shall be interpreted in accordance with the Laws of the Commonwealth of Pennsylvania, without regard to its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods or any subsequently enacted treaty or convention shall not apply or govern the Agreement or the performance thereof or any aspect of any dispute arising therefrom. Any action or proceeding between Buyer and Seller relating to the Agreement shall be commenced and maintained exclusively in the state or federal courts in Montgomery County, Pennsylvania, and Buyer submits itself unconditionally and irrevocably to the personal jurisdiction of such courts. **BUYER AND SELLER EACH WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THE AGREEMENT.**
21. **AMENDMENT.** All technical advice, services and recommendations by Seller and its affiliates are intended for use by persons having skill and know-how, and are accepted by Buyer at its own risk and neither Seller nor its affiliates assume responsibility for results obtained or damages incurred from their use. No statements or agreements, oral or written, not contained herein or in a future amendment hereto executed by both parties will vary or modify the terms hereof. Neither party shall claim any amendment, modification or release of any provisions hereof unless the same is in writing and such writing: (i) specifically refers to these Terms; (ii) specifically identifies the term amended; and (iii) is signed by duly authorized representatives of Seller and Buyer.
22. **NOTICES.** All notices, consents, communications or transmittals under the Agreement shall be in writing and shall be deemed received on the day of delivery if delivered by hand, by nationally recognized overnight courier or delivery service, or by facsimile (with written confirmation of the completed transmittal); or within three (3) business days if mailed by United States mail as certified or registered mail with return receipt, postage prepaid, addressed to the party to whom such notice is given at the address of such party.
23. **INDEPENDENT CONTRACTORS.** Seller and Buyer are independent contractors only and are not partners, master/servant, principal/agent or involved herein as parties to any other similar legal relationship with respect to the transactions contemplated hereunder or otherwise, and no fiduciary, trust or advisor relationship, or any other relationship, imposing vicarious liability shall exist between the parties.
24. **BENEFICIARIES.** These Terms are solely for the benefit of Seller and its affiliates, the Indemnitees and Buyer and shall not be deemed to confer upon or give to any other party any right, claim, cause of action or interest herein.
25. **MISCELLANEOUS.** These Terms supersede any terms and conditions of previous dates, and if there is a conflict between these Terms and the specific provisions contained in a signed writing between Seller and Buyer, the specific provisions contained in the signed writing shall control. The captions and section headings set forth in these Terms are for convenience only and shall not be used in defining or construing any of the terms and conditions herein. Waiver by either party of any breach of the terms and conditions contained herein will not be construed as a waiver of any other or continuing breach. The invalidity or unenforceability of any provision hereunder shall not affect the validity or enforceability of its other provisions. No course of dealing, course of performance, or usage of trade shall be considered in the interpretation or enforcement of these terms.

Signature: _____

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