**NOTICE**

**TERMS AND CONDITIONS – WARRANTY DISCLAIMER – LIMITATION ON LIABILITY**

The following terms and conditions, warranty disclaimers and limitations on liability (collectively, the “Terms”) apply to all Products manufactured and/or supplied by Robert Marvel Plastic Mulch LLC (“RMPM”) to any purchaser or user (collectively, “Buyer”):

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**Assignment of Manufacturer’s Warranties.** RMPM hereby assigns to Buyer, to the extent assignable, all manufacturer’s warranties and service agreements with respect to the Product(s), if any. In the event RMPM must obtain the consent of the manufacturer or take other action before such warranties are assignment, RMPM shall do so prior to delivery.

**Acceptance of Products and Terms by Buyer.** Buyer accepts the Product(s) and Terms herein upon taking any of the following, non-exclusive actions: (1) tendering full and final payment to RMPM; (2) failing to object or notify RMPM of any defect or nonconformance within ten (10) days of receipt of the Product(s); (3) expressly or impliedly agreeing, either orally or in writing, to the Terms; and (4) participating in any conduct whatsoever that would give RMPM a reasonable belief that Buyer intended to accept the Terms.

**Risk of Loss.** Buyer assumes all risk of loss of the Products immediately upon receipt, and in the event that RMPM approves any return of the Products, Buyer retains all risk of loss until RMPM receives the Products from Buyer.

**Termination by Buyer.** Should Buyer wish to object and/or notify RMPM of any defect or nonconformance of the Product(s) or otherwise terminate the purchase and sale, Buyer must immediately notify of its intent to do so and include specific detailed reasoning for its notice or termination so that RMPM can conduct a reasonable investigation. Buyer must also abide by RMPM’s instructions and take reasonable measures to safeguard and return the Products. Within thirty (30) days of receipt of objection or notice from Buyer, RMPM has the right to cure any defect or conformance.

**Buyer’s Remedies.** Buyer’s exclusive remedy for any and all losses or damages resulting from the purchase of the Product(s) subsequent to use of the Product(s), including, without limitation, any claim or breach of warranty, breach of contract, negligence or strict liability, shall be limited at RMPM’s option,

to either (i) return of the purchase price, or (ii) replacement of the specific quality of Product(s) for which a claim is made and proved. In no event shall RMPM be liable for special, consequential, incidental or indirect losses or damages.

**RMPM’s Remedies.** RMPM reserves all available remedies for itself under the Pennsylvania Commercial Code or

otherwise in the event of Buyer’s breach of these Terms or other terms arising from the purchase and sale of the Products.

**Entire Agreement.** These Terms constitute the sole and entire agreement of RMPM and the Buyer with respect to the purchase and sale of the Product(s), and supersede all prior, contemporaneous and future understandings and agreements, both written and oral, including any forms provided by Buyer after receipt of the Product(s) and/or these Terms, with respect to such subject matter. Any representations, assurances or warranties by RMPM employees or agents that differ in any way from this disclaimer are of no force or effect. Any technical advice furnished by RMPM with respect to the Product or its use is given without charge, and RMPM assumes no obligation or liability for the advice given, or the results obtained, all such advice being given and accepted at Buyer’s sole risk. Any past, current or prospective course of performance or dealing between the parties and any usage of trade that differ in any way from this disclaimer are of no force or effect and have no evidentiary effect. Any actions taken by RMPM that are in conflict with the terms herein do not prejudice RMPM’s right to rely on said terms and the Pennsylvania Commercial Code.

**No Third-Party Beneficiaries.** The Product(s) provided by RMPM are for the sole benefit of the Buyer hereto and its respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever against RMPM.

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