

BUSINESS DEVELOPMENT AND EXCLUSIVE SUPPLY AGREEMENT

This Business Development and Exclusive Supply Agreement ("Agreement") is made and effective as of the 5 day of February, 2021, by and between **Viance, LLC**, a Delaware limited liability company ("VIANCE"), and **REDACTED** a **REDACTED** corporation (**REDACTED**). **REDACTED** and VIANCE are jointly referred to as the "Parties".

RECITALS

WHEREAS, VIANCE is engaged in the business of manufacturing, distributing, and selling **REDACTED** and VIANCE UP-50 which, when formulated using the equipment and processes as directed by VIANCE, constitutes a proprietary oil-based wood preservative concentrate based on DCOI for the pressure treatment of industrial wood:

WHEREAS, **REDACTED**

WHEREAS, VIANCE desires to expand the use and sales of **REDACTED** and VIANCE UP-50 to include treatment of certain North American species of Wood Poles;

WHEREAS, **REDACTED** owns wood treating facilities in **REDACTED** and **REDACTED** that may be suitable for testing and treatment of various species of Wood Poles with **REDACTED** and/or VIANCE UP-50;

WHEREAS, VIANCE desires that **REDACTED** utilize its facilities, experience, expertise and industry contacts to develop a market for the sale of Wood Poles treated with **REDACTED** and/or VIANCE UP-50;

WHEREAS, VIANCE desires to complete treating data needs for standardization of **REDACTED** and VIANCE UP-50 in the American Wood Protection Association (AWPA) and other standards setting organizations;

WHEREAS, **REDACTED** desires to purchase **REDACTED** and/or VIANCE UP-50 from VIANCE to treat Wood Poles, and then, market, distribute and sell such treated Wood Poles;

WHEREAS, the Parties desire to enter into this Agreement setting forth their respective rights and obligations during this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, VIANCE and **REDACTED** hereby agree as follows:

1. Intellectual Property. **REDACTED**

REDACTED

a. REDACTED

b. REDACTED

c. REDACTED

i. REDACTED

ii. REDACTED

iii. REDACTED

REDACTED

2. **Duration/Term of Testing Phase.** Unless earlier terminated or otherwise agreed to by the Parties, the start up and testing shall commence immediately following delivery of REDACTED and VIANCE UP-50 and continue until REDACTED is satisfied, in its sole discretion, with the testing of REDACTED and VIANCE UP-50 (the “START UP AND TESTING”); provided, however that REDACTED will use commercially reasonable efforts to complete the START UP AND TESTING as expeditiously as reasonably possible.

REDACTED

3. REDACTED **Business Development Services.**

a.

REDACTED

b.

REDACTED

REDACTED

REDACTED

REDACTED

4. VIANCE's Support Obligations.

REDACTED

REDACTED

a.

REDACTED

b.

REDACTED

c.

REDACTED

d.

REDACTED

e.

REDACTED

REDACTED

5. **Costs and Expenses.**

REDACTED

6.

REDACTED

SUPPLY

7. **Purchase Exclusivity and Sale.**

a.

b.

c.

d.

REDACTED

e.

REDACTED

8. **Term.** Unless earlier terminated pursuant to the terms of this Agreement, this Agreement shall be in effect for REDACTED from the date of execution of this Agreement (the “Initial Term”). Thereafter, the term shall be automatically extended for REDACTED terms (each a “Renewal Term”, collectively the Initial Term and Renewal Term are the “Term”) unless either Party gives the other written notice of its intent not to renew REDACTED before the end of the Initial Term or any Renewal Term, as applicable.

9. REDACTED VIANCE UP-50. The product supplied by VIANCE to REDACTED is VIANCE REDACTED and/or VIANCE UP-50, a 50% a.i. DCOI solid concentrate, to be used in the pressure treatment of Wood Poles. REDACTED

PRICING AND PAYMENT TERMS

10. Initial Price REDACTED The initial price for VIANCE UP-23 and VIANCE UP-50 is REDACTED /active pound, REDACTED

a.

b.

c.

d.

REDACTED

e.

f.

g.

REDACTED

11.

REDACTED

a.

REDACTED

b.

REDACTED

12. **Payment Terms.**

REDACTED

13. **Forecasting.**

a.

REDACTED

b.

14. **Ordering Procedure.**

REDACTED

15 GENERAL TERMS

Applicability. The terms set forth in the Section 15 shall apply during the Agreement.

REDACTED

a. REDACTED **VIANCE UP-50 Warranty.**

i. REDACTED

ii.

b. **VIANCE's Obligations, Representatives and Warranties.** VIANCE undertakes the following obligations and makes the following representations and warranties to

REDACTED

i. REDACTED

ii.

iii.

REDACTED

iv.

REDACTED

v.

vi.

vii.

viii.

ix.

x.

REDACTED

xii.

REDACTED

xiii.

REDACTED

xiv.

xv.

xvi.

- c. **REDACTED Obligations, Representations and Warranties.** REDACTED undertakes the following obligations and makes the following representations and warranties:

i.

REDACTED

ii.

iii.

iv.

v.

REDACTED

vi.

REDACTED

vii.

viii.

d. Insurance.

REDACTED

i.

REDACTED

ii.

iii.

REDACTED

e. **Termination.** Unless extended, this Agreement shall terminate upon the expiration of the Term set forth in Section 8 of this Agreement. Furthermore, this Agreement can be terminated as follows:

- i. If either Party becomes bankrupt, or insolvent, or defaults in the performance of any non-monetary obligation contained herein, and said default is not cured within thirty (30) days after receipt of written notice identifying said default, the other party, at its option, may upon written notice terminate this Agreement effective immediately.
- ii. If either Party defaults in the performance of a monetary obligation contained herein, and said default is not cured within (45) days after receipt of written notice identifying said default, the other Party, at its option, may upon written notice terminate this Agreement effective immediately.
- iii. Any termination shall be without prejudice to the collection of any monies then due and owing. The foregoing remedies shall be cumulative and not exclusive, and the Parties shall be entitled to all other remedies provided by law or in equity.

f. **Assignment.**

REDACTED

g. **Modification and Waiver.** The failure or delay of either Party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a modification or waiver of such provisions, nor in any way effect the validity of this Agreement or any part thereof, or the right to enforce each and every such provision. An express waiver (whether one or more times) by either of the Parties of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement. None of the terms of this Agreement shall be deemed to be waived or modified except by a written document drawn expressly for such purpose and executed by the party against whom enforcement of such waiver or modification is sought.

h. **Force Majeure.** The performance by either Party of any covenant or obligation on its part to be performed hereunder (other than an obligation to pay money) shall be excused by floods, strikes, or other labor disturbances, riots, fires, public health outbreaks, accidents, wars, embargoes, delays of carrier, mechanical failure of equipment, failure of power or of natural sources of supply, injunction or restraints of government, or any other cause preventing such performance, whether similar or dissimilar to the foregoing, beyond the reasonable control of the Party bound by such covenant or obligation. The Party affected shall exert its commercially

reasonable best efforts to eliminate, cure or overcome any such causes and to resume performance of its covenants and obligations with all possible speed.

i. **Independent Contractors.**

REDACTED

REDACTED

- j. **Confidentiality.** During the Term and for a period of three (3) years following termination or expiration of this Agreement, each Party undertakes to keep all Confidential Information (as defined herein) disclosed to it strictly confidential and will use it only in performance of this Agreement. During the Term and for a period of three (3) years following termination or expiration of this Agreement, each Party shall take all reasonable steps to prevent any of its officers, employees or independent contractors from disclosing any of the Confidential Information and from using any of the Confidential Information provided by the other Party for development and production of competing products or for any personal gain.

As used herein, "Confidential Information" means matters of a proprietary nature to the disclosing party, including, but not necessarily limited to inventions, trade secrets, know-how, methods, techniques, engineering concepts, REDACTED and/or VIANCE UP-50 specifications, computer software (both source and object codes), devices, compilations of information, written descriptions, drawings, samples, compositions, demonstrations, research and development efforts, business activities and operations, customer and supplier lists and related data, wood treating methods, processes and records, and similar items. Confidential Information may be in any tangible media including writings, computer programs, logic diagrams, component specifications, or drawings. Notwithstanding this subsection 1, REDACTED shall have the right to disclose Confidential Information of VIANCE to local, state or federal agencies in order to obtain and maintain the required licenses, permits and approvals referenced in Section 15.d.i of this Agreement. REDACTED agrees to disclose only that Confidential Information required by local, state, or federal agencies, and agrees to take reasonable steps to attempt to protect such confidential information from being subject to public information requests by designating the Confidential Information as "Confidential". VIANCE acknowledges that despite such designation, Confidential Information will likely be disseminated. VIANCE expressly acknowledges that it will have access to REDACTED treating processes and equipment, and that such processes and equipment are proprietary Confidential Information that should not be disclosed by VIANCE.

Notwithstanding the foregoing, Confidential Information shall not include information that the recipient can establish:

- (i) was already in the possession of the recipient prior to the time of disclosure to the recipient;

- (ii) was obtained by the Recipient from a third person which is not to the recipient's knowledge subject to any legal, contractual or fiduciary prohibition or obligation against disclosure;
 - (iii) is or becomes available to the public through no fault of the recipient or any of its agents, advisors, attorneys, affiliates, subsidiaries, employees, officers or directors (collectively, "Representatives"); or
 - (iv) is independently developed by the Recipient or its Representatives without use of the Confidential Information.
- k. **Severability.** If any court or regulatory agency or body determines, in a form and manner that renders such determination enforceable against either of the parties, that any provision of this Agreement is void, invalid, unenforceable or illegal, such determination shall not affect any other provision of this Agreement, and this Agreement shall be construed and performed as if such void, invalid, unenforceable or illegal provision had never been contained herein. In such case, this Agreement shall be reformed at the request of either party so that it will preserve, so far as possible, the economic bargain of the parties, as expressed herein.
- l. **Entire Agreement.** This Agreement contains the entire understanding between the parties with respect to the subject matter herein and supersedes all previous agreements, whether written or oral, relating to the same subject matter.
- m. **Notices.** All notices, certificates or other communications hereunder shall be deemed sufficiently given and shall be deemed given when delivered by facsimile, hand-delivery, or mailed by first class, postage prepaid, registered or certified mail, return receipt requested, and addressed in accordance with the following:

If to VIANCE:

VIANCE, LLC.
 Attn: John Hussa, President
 Address: 8001 IBM Drive
 Charlotte, NC 28262
 Phone: 800-421-8661
 Facsimile: 704-527-8232

If to

REDACTED

REDACTED
 Attn: REDACTED
 Address: REDACTED
 REDACTED
 Phone: REDACTED

with a copy to:

REDACTED
 Attn: REDACTED
 Address: REDACTED
 REDACTED
 Phone: REDACTED

- n. or to such other address as either party may provide to the other in writing.
- o. **Headings.** The section headings contained herein are for reference only and shall not in any way affect the interpretation and meaning of this Agreement.
- p. **Waiver of Consequential Damages.** Except with respect to indemnification obligations, claims arising out of breach of confidentiality obligations, or claims due to fraud, gross negligence or willful misconduct of a party NEITHER VIANCE NOR [REDACTED] NOR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, SHAREHOLDERS, DIRECTORS OR AGENTS, SHALL BE LIABLE TO THE OTHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT.
- q. **Governing Law.** This Agreement shall be governed and construed according to the laws of the state of Delaware. Any controversy, dispute or question arising out of, or in connection with, or in relation to this Agreement or its interpretation, performance or nonperformance or any breach thereof shall be determined by the State and Federal Courts located in New Castle County, Delaware. The prevailing party (if reasonably ascertainable) shall be entitled to receive such party's reasonable attorney's fees and disbursements incurred in connection with such matter.
- r. **Waiver of Jury Trial.** EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.
- s. **Counterparts.** This Agreement may be executed in counterparts, all of which shall constitute one and the same instrument.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

VIANCE, LLC.

DocuSigned by:

John Husa

5D1F750B3798411...

By: _____

John Husa

Name: _____

President

Title: _____

REDACTED

REDACTED

By: _____

3BA8C9739DCB49D...

REDACTED

Name: _____

REDACTED

Title: _____

Appendix A

SCOPE OF WORK/TESTING

1. **Applicability.** The terms set forth in this Article shall apply during the START UP AND TESTING contemplated by the Agreement.
2. **Scope of Work/Testing.** VIANCE and REDACTED will work jointly to complete the commercial treatments required for standardization by the American Wood Protection Association.
 - a. REDACTED shall furnish all supervision, labor and employees, equipment, tools, REDACTED and/or VIANCE UP-50, oil, and Wood Poles necessary to operate its facility during the test treatments. VIANCE shall furnish supervision, equipment, tools, labor and employees.
3. **Access.** REDACTED will provide VIANCE reasonable access to REDACTED facility to participate in testing the REDACTED and/or VIANCE UP-50 in the treatment of Wood Poles.
4. **Control of REDACTED Facility.** REDACTED will operate the REDACTED facility in a manner that will facilitate such tests as VIANCE may reasonably request. Notwithstanding the foregoing, REDACTED shall at all times remain in control of its facility, the operation of the treating equipment, and scheduling the work necessary to perform the testing.
5. **Compliance with Rules.** VIANCE shall perform its testing activities in a safe and workmanlike manner and in accordance with all industry standards and shall take all reasonable safety precautions. While at REDACTED facilities, VIANCE shall comply with all REDACTED and industry recommended or required safety rules and regulations including, but not limited to, the requirement that all VIANCE personnel at the REDACTED facility wear safety shoes, hard hats, safety glasses, and be properly trained and certified as required by REDACTED. VIANCE shall comply with all laws, regulations, ordinances and rules applicable to the testing of REDACTED and/or VIANCE UP-50 and their presence at the REDACTED facility. Without limiting the foregoing, VIANCE acknowledges familiarity with, and understanding of, the federal Occupational Safety & Health Act of 1970 ("OSHA") and agrees to accept full and total responsibility for all consequences of any failure of VIANCE to comply with OSHA or any of its standards.

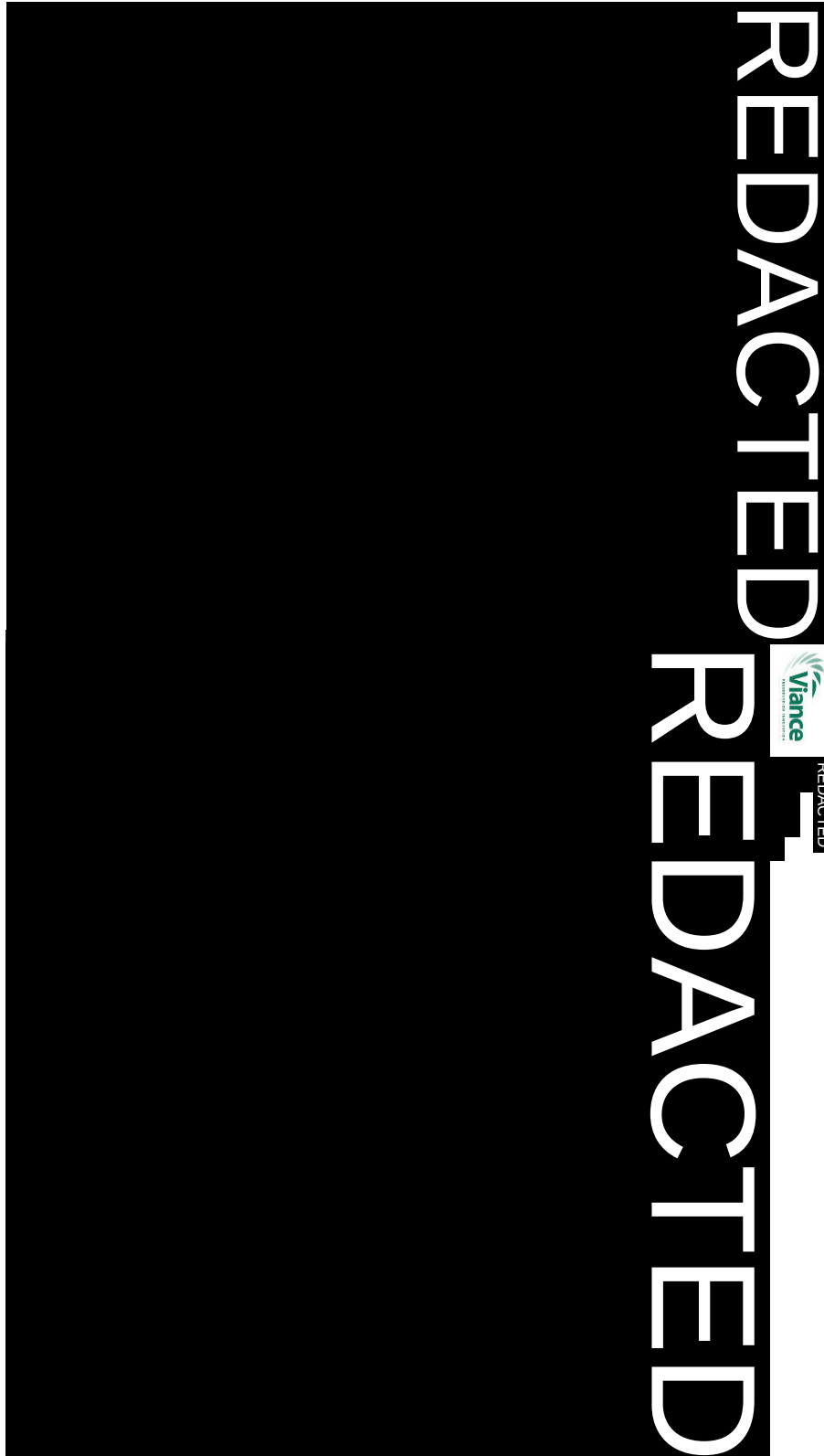
6. **Compliance with** REDACTED **Contractor Safety Program/Training.** VIANCE shall be responsible for assuring that all of its employees and representatives that are at a REDACTED facility are qualified, experienced and capable, and receive adequate safety training prior to commencing any testing activities at the REDACTED facility. REDACTED shall provide VIANCE employees and representatives with REDACTED Contractor Safety Training. Further, VIANCE's personnel shall remain within designated areas of the REDACTED facility and shall not leave designated areas unless accompanied by REDACTED personnel.

7. **Capital Improvements.** REDACTED

8. **Tank Cleanout/Disposal of Waste.** REDACTED shall be responsible for initial tank, retort, and equipment cleaning prior to testing, and disposal of such waste.

9. **Cost Sharing.** REDACTED

Appendix B
PRODUCT SPECIFICATIONS



Appendix C

