

Terms and Conditions

This agreement (the “Agreement”), by and between Action Tree Service (“Action Tree Service” or “Company”) and the authorizing party or its agent (“Customer”) is effective as of the date of last signature below (the “Effective Date”).

1. Services

- (a) **Scheduling/ Cancellation:** The scope of the Services will be defined in a written proposal, either attached hereto or provided to Customer separately (each, a “Proposal”). To the best of its ability Action Tree Service will arrive on the scheduled performance date set forth in the Proposal. Schedules are contingent upon, but not limited to, weather, accidents, and other delays beyond the Company’s control. Action Tree Service shall not be liable for damages, losses, or injuries caused by any such delays. Customer shall provide at least 72 hours’ notice for cancellation. In the event that Customer fails to provide 72 hours’ cancellation notice to Company, Company shall be entitled, at its discretion, to charge a \$150 late cancellation notice fee.
- (b) **Debris Removal:** All debris from tree trimming and tree removal operations as part of the Services shall be cleaned up each day before the work crew leaves the site, unless otherwise coordinated by the Customer and Company. All Customer lawn areas shall be raked, streets and sidewalks in the worksite area shall be cleaned, and all brush, branches, and logs that were a direct result of the Services shall be removed from the site unless stated otherwise on the written contract or quote.
- (c) **Stump Grinding:** “Stump Grinding” is the process of utilizing a commercial stump grinder to remove stump to a depth of two to six inches (2”-6”) below ground, unless otherwise stated in the Proposal. Stump grinding is not included in the price quoted for tree removal, unless explicitly stated in the Proposal. Surface and subsurface roots beyond the stump are not removed unless specified in this Agreement or applicable Proposal. Any additional work required that is a direct result of foreign materials in the trunk, underground, or any other condition not apparent during the estimating/quoting process will be billed at Company’s normal rate.
- (d) **Additional Work:** Any additional work or equipment required to complete the Services which is caused by Customer’s failure to make known, or caused by previously unknown, foreign material in the tree trunk, the branches, underground, or any other condition not apparent in estimating the cost of the Services, shall be paid for by the Customer at the Company’s normal rate.

2. Fees and Payments

- (a) **Estimates/Quotes:** All eProposals provided by Action Tree Service are valid for 90 days and must be accepted in writing by the Customer.

- (b) **Terms of Payment:** Unless otherwise noted in the corresponding Proposal, the Customer agrees to pay in full upon completion of the work. Failure to remit full payment within 30 days will result in a finance charge of 5% of the total amount due. Failure to remit full payment within 90 days will result in a \$100 late fee and Action Tree Service reserves the right to turn the account over to collections. All costs of such collection efforts by Company, including reasonable attorneys' fees, shall be the responsibility of Customer.
- (c) **Types of Payment:** Action Tree Service accepts payment via check, money order, cashier's check, as well as most major credit cards.
- (d) **Returned Check Fee:** If a check is returned for insufficient funds, Customer will be assessed a \$35 fee.

3. Action Tree Service Warrants to Customer

- (a) **Workmanship/Performance:** All Action Tree Service work will be performed professionally, with the appropriate tools and equipment.
- (b) **Safety:** All Action Tree Service operations will follow the latest industry safety standards.
- (c) **Lawn & Surfaces Damage/Repair:** Action Tree Service will attempt to minimize all disturbances to the Customer's lawn and surfaces. However, in many cases Action Tree Service must utilize large vehicles & equipment designed to perform the Services. Action Tree Service shall not be liable for damages to driveways, landscaping, sod, and/or plant material in the execution of its work or causes beyond its control (i.e.: ruts left in yard from heavy equipment, limbs falling on flowerbeds, cracking of paved or concrete surfaces and/or sidewalk due to weight of trucks/equipment etc.).
- (d) **Pedestrian/Vehicular Safety:** Action Tree Service is solely responsible for pedestrian and vehicular safety control within the worksite while performing the Services. Action Tree Service shall provide reasonable warning devices, barricades, and ground personnel required to promote the safety, protection, and warning of pedestrian and vehicular traffic within the area. Notwithstanding the foregoing, Action Tree Services shall not be responsible for any losses or damages related to bodily injury, including death, or damage to property which occurs as a result of Customer's negligence or willful misconduct with regard to worksite access.
- (e) **Licenses/Permits:** Action Tree Service is responsible for the costs of insurance, licenses, and/or bonds required to perform the Services under this Agreement to comply with all applicable local, state, and federal codes, rules, and regulations.
- (f) **Insurance:** Action Tree Service warrants that it is insured for liability resulting from injury to person(s) or property and that all employees are covered by workers' compensation as required by law. Certificates of coverage are available upon request.

4. Customer Warrants to Action Tree Service

- (a) **Ownership:** The Customer warrants that all trees listed are located on the Customer's property and if not, Customer has received full written permission from the property owner to allow Action Tree Service to perform the Services. Should any tree be mistakenly identified as to ownership, the Customer agrees to indemnify Action Tree Service for any damages or costs incurred from the result thereof.
- (b) **Customer Safety:** The Customer agrees to not enter the work area during the Services unless authorized by the onsite crew leader/supervisor.
- (c) **Personal Property:** The Customer is responsible for removing all personal property from the worksite area in advance of the scheduled arrival date. If the Customer fails to remove all items in advance or requires assistance in moving items Action Tree Service will make a reasonable effort to relocate these items or protect them to the best of its ability but will not be held liable for any damage.
- (d) **Concealed contingencies/foreign materials:** The Customer will clearly and conspicuously mark anything such as septic fields, underground septic tanks, buried structures/tanks of any kind, abandoned cisterns, shelters, basements, etc. that requires special consideration when accessing the job site area, and will inform Company as to any potential hazards of which Customer is aware. The Customer will be liable for damages due to a failure to report any underground hazards, structures, or personal property that Action Tree Service has not been made aware of in advance, during the estimate/quote process. Any additional work required as a direct result of the considerations discussed above, or caused by foreign materials in the trunk, branches, underground, or any other condition not apparent during the estimating/quoting process will be billed at the Company's normal rate.
- (e) **Unmarked Utilities:** Action Tree Service is not responsible for damages to underground sprinklers, drain lines, invisible fences, or underground cables/utilities unless the systems are adequately and accurately mapped by the Customer and a copy is presented before, or at the time, the Services are performed. It is the responsibility of the Customer to call #811 and request a location of all utilities at the jobsite at least 48 hours before any stump grinding project begins.
- (f) **Customer's Licenses/Permits:** The Customer/property owner shall be responsible for obtaining and paying for necessary permits and approvals from local HOA and other governing entities (cities and towns). In many instances local towns and cities require a permit to perform work that requires parking on the street while performing work for a local resident.

5. Disclaimers

- (a) **Insurance/Indemnity:** Action Tree Service is insured for liability resulting from injury to persons or property, and all its employees are covered by workers' compensation insurance. The parties herein agree that in no instance may the Customer seek damages more than Action Tree Service's policy liability. Once Action Tree Service completes its obligations under this Agreement, Customer agrees to indemnify and hold harmless Action Tree Service and its

agents for any injury, loss, or expense associated with work performed or in any way related to Services performed with this Agreement.

- (b) Completion of Contract:** Action Tree Service agrees to do its best to meet any agreed upon performance dates but shall not be liable in damages or otherwise for delays due to inclement weather, labor, or any other cause beyond Company's control; nor shall the Customer be relieved of its obligation to remit full payment to Company in the event completion of the Services is reasonably delayed due to circumstances outside the reasonable control of Company.
- (c) Governing Laws:** The terms and conditions of this Agreement shall be interpreted and governed according to the laws of the state where the Services are performed. Customer agrees to pay all costs, mediation fees, arbitration fees, and expenses, and all of Customer's own fees costs and expenses. Customer agrees to limit the damages that may be recovered in any legal proceeding to an amount equal to the amount of this Agreement. Customer hereby waives right to jury trial as to any claim asserted by or against Action Tree Service.
- (d) Media Release:** Action Tree Service may take video, audio, and/or pictures of the progress of the project to be used for promotional purposes. By accepting this agreement, the Customer grants Action Tree Service, the right to use, publish, and reproduce for any purpose, in any format, and on any medium. Additionally, the Customer waives all rights to receive any compensation for the use of this media.
- (e) Alternative Dispute Resolution:** Except as herein provided the Customer agrees not to bring, file, initiate, commence, continue, or pursue any lawsuit, claim, counterclaim, crossclaim, or set off or any other judicial administrative, or other legal proceeding against Action Tree Service more than one year after any incident giving rise to the claim occurred, regardless of the discovery date. If Customer wishes to file lawsuit against Action Tree Service, Customer must first provide Action Tree Service with (30) days written notice of the intention to do so and the same opportunities to cure.
- (f) Agreement and Authority:** Upon acceptance the Customer represents that he/she has full authority to sign this Agreement for Services at the agreed upon address where the Services are to be completed. This is the entire agreement between the parties, and all prior discussions, negotiations, and representations are merged into and superseded by this Agreement, and Customer cannot rely on such matters that predate this Agreement or any verbal agreements prior to, during or after the date of the Agreement.
- (g) Entire Contract:** This Agreement, along with any applicable Proposal, shall apply as the binding and entire Agreement between the Company and the Customer and are to be read in conjunction with the particulars of any estimation documentation.