

Pioneer Turf Services, Inc. – Standard Terms and Conditions of Service

1. **DEFINITIONS; SCOPE** - As used herein “PTS” shall mean Pioneer Turf Services, Inc., an Ohio corporation; “Order” shall mean PTS’s quotation/bid; “Services” means the services of PTS that are specifically set forth and described in the Order (and to the extent applicable, its attachments); “Customer” means the Customer whose name is set forth in the Order; and “Terms” means the standard terms and conditions of PTS set forth herein. Delivery, scope of supply/services, and any changes to the same shall be based upon PTS’s Order and any expressly agreed upon changes.

2. **ACCEPTANCE** - Customer’s acceptance of any of the Services shall constitute full acceptance of these Terms and the Order. No term and/or condition in Customer’s order that is inconsistent with or contrary or in addition to these Terms shall be binding upon PTS unless specifically agreed to in writing by PTS’s authorized officer.

3. **WARRANTY** - PTS warrants that: (i) any Services shall be performed by competent and qualified personnel in a professional and workmanlike manner in accordance with generally established industry standards; and (ii) the Services will conform to any applicable specifications and/or drawings that have been expressly agreed upon between the parties in writing as being part of this warranty. PTS’s warranties on all Services will be in effect until the earlier of five days from the date of the performance of any such Services and use of the surface upon which the services are performed. PTS’s sole liability and Customer’s sole and exclusive remedy for breach thereof shall be the re-performance of such Services by PTS. Any re-performance of Services provided by PTS shall be warranted by PTS for a period equal to the remainder of the original warranty period set forth above (no warranty shall extend beyond such period); no “evergreen” or “in-place” warranty is being provided. PTS shall have the sole right to specify the manner in which, and the person by whom, performance, re-performance, replacement, and/or repair of said Services are to be carried out.

THERE ARE NO WARRANTIES, GUARANTEES, REPRESENTATIONS, OR REMEDIES THAT EXTEND BEYOND THE FACE OF THESE TERMS AND THE ORDER, AND ALL OTHER WARRANTIES, GUARANTEES, REPRESENTATIONS, OR REMEDIES (EXPRESS OR IMPLIED) NOT EXPRESSLY SET FORTH IN THESE TERMS OR THE ORDER ARE FULLY DISCLAIMED AND EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. THE WARRANTIES, GUARANTEES, REPRESENTATIONS, AND REMEDIES SET FORTH IN THESE TERMS (AND THE ORDER) ARE EXCLUSIVE AND IN PLACE OF ALL OTHER WARRANTIES, GUARANTEES, REPRESENTATIONS, AND REMEDIES (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE). PTS’S WARRANTIES DO NOT COVER ANY SERVICES THAT HAVE BEEN ALTERED OR SUBJECTED TO MISUSE OR ACCIDENT, OR IMPROPER MAINTENANCE, OR APPLICATION (INCLUDING ANY FAILURE DUE TO OILS AND SUBSTANCES THAT MAY PREVENT GOOD ADHESION BETWEEN THE COATING AND THE SYNTHETIC TURF FIBERS IF APPLICABLE), AND NO SERVICES WILL BE DEEMED NON-CONFORMING BY REASON THEREOF. PTS EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE SERVICES SHALL BE DEEMED TO GUARANTEE OR LEAD TO SPECIFIC RESULTS OR STANDARD OF PERFORMANCE UNLESS SUCH RESULTS OR STANDARDS HAVE BEEN QUOTED AND EXPRESSLY AGREED TO IN WRITING BY PTS.

4. **INDEMNITY OF CUSTOMER** - PTS will indemnify Customer from claims, suits, or actions brought by third parties against Customer for bodily injury (including death) to the extent directly caused by the gross negligence of PTS. PTS shall not be responsible for the acts, omissions, or obligations of Customer or other third parties. PTS’s obligations shall not extend to the property of Customer, or its employees, principals, agents, successors, assigns, beneficiaries, or affiliates. The duty to indemnify is conditioned upon Customer: (i) providing prompt and detailed notice to PTS of any such claim, suit, or action; (ii) tendering its defense and settlement to PTS; and (iii) providing full cooperation, authority, and assistance to PTS.

5. **ON-SITE/SERVICE PROVISIONS** - Each party shall only be required to comply with applicable U.S. statutes, acts, ordinances, regulations, codes, and laws that would otherwise normally apply to such party as imposed by federal, state, and local governments of the U.S. that have personal and subject matter jurisdiction over such party and acts. PTS is not acting as a general or special contractor. PTS’s employees (and subcontractors/representatives, if applicable) shall be given reasonable and unobstructed access to the site to perform the Services. Customer shall be charged for time and expense for any delays caused by anyone other than PTS’s on-site personnel. Any agreed upon job/site requirements or procedures shall only apply to PTS where applicable to, and only to the extent of, the scope of the Services. PTS is an independent contractor and will not be responsible for any enforcement obligations, or oversight of work or property of others, including with respect to health, safety, or security. PTS is not providing any supervision of Customer’s employees, subcontractors, or other agents (other than providing technical advice if/where part of PTS’s quoted scope of work). If PTS’s employee, subcontractor, or agent fails to materially comply with applicable site/safety rules, laws, or procedures of the site, Customer’s sole remedy shall be its right to have the offending individual(s) removed from the site. Customer shall be responsible for any damage to, or loss of, PTS’s (or its employees, subcontractors and agents) equipment or other property to the extent that such damage or loss is not caused by PTS (or its employees, subcontractors, or agents).

6. **FORCE MAJEURE** - PTS shall not be liable for damages or delay in performance arising from causes beyond its control or without its fault or negligence, including, but not limited to, acts of God or the public enemy, acts of Government in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and/or severe weather.

7. **TAXES & DUTIES** - Customer shall be responsible for payment of all sales, use, and excise taxes, duties, and fees levied or imposed by any governmental authority upon the Services.

8. **PAYMENT** - Customer shall pay all invoices within 15 days from the date of PTS’s invoice. PTS does not waive rights or claims, except claims for payment to the extent that such payments have been received by PTS. PTS reserves the right to charge late fees at the lesser of (i) the rate of 1.5% per month or (ii) the maximum amount permitted by law for all amounts not paid within 45 days of invoice date, and Customer shall pay all of PTS’s collection costs, including collection agency fees, legal fees, and court costs for overdue invoices. If, in PTS’s reasonable opinion, Customer’s financial condition or payment position may jeopardize full or timely payment, PTS may require full or partial payment as a condition to commencing or continuing performance of Services.

9. **CANCELLATION** - Customer may cancel this Order, in whole or in part, upon at least 5 calendar days advanced written notice to PTS and payment of cancellation charges, which shall be the sum of: (1) the specified Order price (including profit) of all Services performed for which PTS has not been paid, plus (2) the proportional price (including profit) of the Order that is properly allocable to the Services that has been performed but not delivered at the time of decrease or cancellation including, without limitation, work in progress and the cost of components and materials and Services purchased for producing such Goods, plus (3) the reasonable costs incurred in making settlement and effecting collection hereunder. The parties agree that Customer’s cancellation charges shall not exceed the total Order price. Any Services sold by PTS that are in-process/unfinished/incomplete shall be deemed to be sold “AS IS,” “WHERE IS,” “WITH ALL FAULTS,” and “WITHOUT WARRANTY OR GUARANTEE OF ANY KIND.” PTS may cancel this Order, in whole or in part, at any time due to: delay, breach, or other reasonable cause upon notice to Customer, including: (1) if Customer or its employees, affiliates, or agents cause a suspension/delay in delivery without it being mutually agreed upon in advance; (2) if Customer breaches any material term of this Order; and/or (3) if Customer files bankruptcy or otherwise fails to either make full and timely payments, meet its obligations, or provide further assurances.

10. **EXCLUSIONS OF DAMAGES/REMEDIES; WAIVER; LIMITATION OF LIABILITY; SURVIVAL; & VALIDITY** - Notwithstanding any other provisions or requirements within or without these Terms or the Order, the following shall apply, govern, control, and survive at all times and to the fullest extent permitted by law:

10.1 PTS shall not be liable for any loss of profit, loss of business, loss of contracts, or for any special, indirect, economic, incidental, consequential, or

punitive damages or losses, whether based on contract, warranty, indemnity, statute, tort (including negligence), or otherwise pursuant and/or related to the Order (including without limitation the Order itself and/or any of the underlying or related transactions, acts, obligations, and/or omissions). Customer (and any third party beneficiaries, if any) expressly waive(s) the right to claim or recover any of the foregoing types of damages from PTS arising out of, in connection with, and/or related to the Order (including without limitation the Order itself and/or any of the underlying or related transactions, acts, obligations, and/or omissions) to the fullest extent permitted by law.

10.2 Except to the extent this limitation is prohibited by law, PTS's total liability pursuant and/or related to the Order (including without limitation the Order itself and/or any of the underlying or related transactions, acts, obligations, and/or omissions), whether for breach of contract or by reason of any tort (including negligence), statute, warranty, indemnity, or otherwise, shall in no event exceed the total price of the Order.

10.3 For the purposes of this Section 10 only, the term "PTS" shall include its employees, officers, agents, and/or affiliates. To the fullest extent permitted by law, the warranties and remedies by PTS set forth in these Terms are sole and exclusive, and in place of all other rights, warranties, remedies, and guarantees available to Customer. All rights, warranties, remedies, and/or guarantees provided by PTS are subject to the conditions, exclusions, and limitations of this Section 10 to the fullest extent permitted by law. This entire Section 10 as well as the exclusions, limitations, disclaimers, and conditions set forth in Section 3 (Warranty) and Section 6 (Force Majeure) shall survive any breach, default, termination, cancellation, or dissolution of these Terms and/or the Order. To the fullest extent permitted by law, PTS shall have no warranty, insurance, hold harmless, defense, and/or indemnification liability/obligation(s) beyond those that are expressly set forth within these Terms, and any additional or conflicting provisions or requirements shall not be enforceable. If any provision of these Terms or the Order or any part hereof or thereof shall for any reason be held by any judicial determination to be invalid or unenforceable, the valid or enforceable parts of the remainder of these Terms and/or the Order shall continue in full force and effect.

11. ENTIRE AGREEMENT; GOVERNING LAW & FORUM; NO THIRD PARTY BENEFICIARIES; ASSIGNMENT – Neither these Terms nor the Order can be amended, superseded, or modified except by a written document signed by PTS's duly authorized officer and Customer's duly authorized representative. Any additional, conflicting, or contravening term or condition set forth or proposed by Customer (in the past, present, or future) is hereby objected to, rejected, and shall have no force or effect. Governing law and forum of these Terms and the Order and all related matters shall be the laws (and exclusive forum) of the State of Ohio, despite any conflicts of laws. The parties agree to exclusive venue in Cuyahoga County, Ohio. To the fullest extent permitted by law, Customer and PTS agree that these Terms and the Order is between them alone, and there are no intended rights or benefits being provided hereunder to any third party. PTS may subcontract with third parties for the manufacture and/or purchase of all or part of the Services. Other than PTS's ability to use its vendors/subcontractors, neither party may transfer or assign these Terms or the Order, in whole or in part, without the other party's express advance permission (which shall not be unreasonably delayed or withheld), and any assignment/transfer without proper consent shall be null, void, and of no force or effect.