



SERVICE AGREEMENT NO. 45443

PLAYGROUND EQUIPMENT AND INSTALLATION AT WEST HAVEN PARK

THIS **Playground Equipment and Installation at West Haven Park Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Park Place Recreation Designs, Inc. ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Playground Equipment and Installation at West Haven Park in response to Request for Bid/Proposal No. N/A ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

- 1. Scope.** Contractor will provide Playground Equipment and Installation at West Haven Park ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.
- 2. Term.** This Agreement is for six months, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator or Purchasing Division. This Agreement includes an option to extend the term for up to zero additional zero-month periods ("Option Period"), provided, the parties do so prior to expiration of the original term or the then-current Option Period. The decision to exercise the option to extend the term of this Agreement is, at all times, within the sole discretion of the City and is conditioned upon the prior written agreement of the Contractor and the City Manager.
- 3. Compensation and Payment.** The total value of this Agreement is not to exceed \$83,200.00, subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule,

as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

4. **Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Name: Joshua Wentworth
Department: Park and Recreation
Phone: (361) 826-3483
Email: JoshuaW@cctexas.com

5. **Insurance; Bonds.**

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

6. **Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and

Services will not be rendered until the Contractor receives the signed purchase release order.

7. **Inspection and Acceptance.** Any Services that are provided but not accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.
8. **Warranty.** The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances. In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.
9. **Quality/Quantity Adjustments.** Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.
10. **Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.
11. **Independent Contractor.** Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.

12. **Subcontractors.** Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid or proposal, as applicable. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the work.
13. **Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.
14. **Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
15. **Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
16. **Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Joshua Wentworth
Title: Park and Recreation Superintendant
Address: 1201 Leopard St., 2nd Floor, Corpus Christi, TX 78401
Fax: (361) 826-3174

IF TO CONTRACTOR:

Park Place Recreation Designs, Inc.
Attn: Michael Carlyon
Project Manager
P.O. Box 18186, San Antonio, Texas 78218s
Fax: (210) 832-0115

17. CONTRACTOR AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ON ACCOUNT OF PERSONAL INJURIES (INCLUDING DEATH AND WORKERS' COMPENSATION CLAIMS), PROPERTY LOSS OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEES, BUT NOT IF BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) The City Manager may terminate this Agreement for Contractor's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City Manager may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. **Assignment.** No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.
20. **Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
21. **Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
 - A. this Agreement and its attachments
 - B. the bid solicitation document, including addenda (Exhibit 1)
 - C. the Contractor's bid response (Exhibit 2)
22. **Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement.
23. **Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
24. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and

supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

(SIGNATURE PAGE FOLLOWS)

CONTRACTOR

Signature: Marilyn Ahrens

Printed Name: Marilyn Ahrens

Title: Vice President

Date: 4-6-17

CITY OF CORPUS CHRISTI

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance/Bond Requirements
- Attachment D: Warranty Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB/RFP No. N/A
- Exhibit 2: Contractor's Bid/Proposal Response

Attachment A: Scope of Work

Scope of Work

Installation of playground equipment and poured-in-place fall zone area at West Haven Park:

- 1) Installation of playground will include
 - (a) Line location
 - (b) Grading for base installation for pour in place surfacing
 - (c) Installation of playground per manufactures instructions
- 2) Installation of a 1,915 sq ft concrete slab at 4' thick including
 - (a) all material and work to complete forming for concrete pad
 - (b) all material and work to complete reinforcing with wire mesh
 - (c) all material and work to complete placement and finishing of concrete
- 3) Installation of approximately 1,750 sq ft at required depth per fall height of one poured in place rubber pad including
 - (a) all material and work to complete mixing of bonding agent and rubber surfacing
 - (b) all material and work to complete placement of pour in place rubber pad
- 4) All material and work to complete clean up

All installation shall be in accordance with the Public Playground Safety Handbook latest edition produced by the U.S. Consumer Product Safety Commission.

Attachment B: Bid/Pricing Schedule



Park Place Recreation
Designs, Inc.

OFFICE
P.O. Box 18186
San Antonio, TX 78218

PHONE
800-626-0238
210-821-5878

FAX
210-832-0115

EMAIL
fun@miracleparkplace.com

WEB
www.miracleparkplace.com
www.the-art-of-play.com



Approved BuyBoard Vendor

Contract #512-16

Park Place Recreation Designs

Date: **April 5, 2017** Customer: **City of Corpus Christi
Parks and Recreation**

Project: **Westhaven Park
Inclusive Sensory Play Equipment**

ITEM DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
Alta Glide, Freestanding	1	\$ 14,100.00	\$ 14,100.00
Ramp, ground to 1' deck (alta glide) with posts	1	3,756.00	3,756.00
Buddy Rocker	1	6,115.00	6,115.00
Groove Slide	1	3,273.00	3,273.00
Accelerator Swing	1	6,915.00	6,915.00
Concrete Slab with integral sidewalk and fluctuation ramp at wood fiber Approx 1,915 sq ft	1	16,928.00	16,928.00
FlexiTurf Rubber Poured in Place Surfacing, approx. 1,750 sq ft	1	24,806.00	24,806.00
BuyBoard Discount (BuyBoard Contract #512-16)			(6,364.00)
Installation			9,440.00
Freight			2,891.00
Payment Bond			\$ 1,340.00
		Subtotal	\$ 83,200.00
	Tax	0%	\$ 0.00
*Does not include removal of existing wood fiber or equipment		GRAND TOTAL	\$ 83,200.00

*Pricing is for materials/delivery only. Installation is not included unless priced above.

*If not priced above and if required, the following items and associated costs/fees will be the responsibility of the customer:
Sealed Drawings, Building Permits, Performance Bond, TDLR Registration/Review/Inspections.

*Prices are valid for 60 days after which they are subject to change. Any work not specifically mentioned in this proposal as being included shall be considered excluded. The customer will be responsible for any taxes owed.

Authorized By: _____
Printed Name Signature Date

Attachment C: Insurance/Bond Requirements

INSURANCE REQUIREMENTS

I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Contract Administer one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas)	Statutory and complies with Part II of this Exhibit.
Employers Liability	\$500,000/\$500,000/\$500,000
INSTALLATION FLOATER	Value of the equipment

- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

- D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and

- Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2017 Insurance Requirements
Parks and Recreation
Park Equipment and Installation
02/27/2017 sw Risk Management

00 61 16 PAYMENT BOND

BOND NO. _____

Contractor as Principal Name: Mailing address (<i>principal place of business</i>):	Surety Name: Mailing address (<i>principal place of business</i>): Physical address (<i>principal place of business</i>):
Owner Name: City of Corpus Christi, Texas Mailing address (<i>principal place of business</i>): Purchasing Division 1201 Leopard Street 4 th Floor Corpus Christi, Texas 78401	Surety is a corporation organized and existing under the laws of the state of: <i>By submitting this Bond, Surety affirms its authority to do business in the State of Texas and its license to execute bonds in the State of Texas.</i>
Contract Project name and number: Playground Equipment and Installation at Westhaven Park No. 45443 Award Date of the Contract: Contract Price: \$83,200.00	Telephone (<i>main number</i>): Telephone (<i>for notice of claim</i>):
Bond Date of Bond: (<i>Date of Bond cannot be earlier than Award Date of Contract</i>) Said Principal and Surety have signed and sealed this instrument in 4 copies, each one of which shall be deemed an original.	Local Agent for Surety Name: Address: Telephone: E-Mail Address: <i>The address of the surety company to which any notice of claim should be sent may be obtained from the Texas Dept. of Insurance by calling the following toll-free number: 1-800-252-3439</i>

Surety and Contractor, intending to be legally bound and obligated to Owner do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent or representative. The Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally to this bond. The condition of this obligation is such that if the Contractor as Principal pays all claimants providing labor or materials to him or to a Subcontractor in the prosecution of the Work required by the Contract then this obligation shall be null and void; otherwise the obligation is to remain in full force and effect. Provisions of the bond shall be pursuant to the terms and provisions of Chapter 2253 and Chapter 2269 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein. Venue shall lie exclusively in Nueces County, Texas for any legal action.

Contractor as Principal

Signature: _____
 Name: _____
 Title: _____
 Email Address: _____
 Date: _____

Surety

Signature: _____
 Name: _____
 Title: _____
 Email Address: _____
 Date: _____
 (Attach Power of Attorney and place surety seal below)

END OF SECTION

Attachment D: Warranty Requirements

WARRANTY

Buyer agrees that products sold by
Miracle® Recreation Equipment Company
carry only the following warranty:

1. **LIMITED ONE HUNDRED (100) YEAR WARRANTY** on aluminum deck posts, steel deck posts, the Versalok[®] fastening system, and associated fastening hardware against structural failure caused by corrosion or deterioration from exposure to weather, or by defective materials or defective workmanship.
2. **LIMITED TWENTY-FIVE (25) YEAR WARRANTY** on the performance of Play Terrain[™] Rubber Crumb Safety Surfacing.
3. **LIMITED FIFTEEN (15) YEAR WARRANTY** on steel support legs and Mira-Therm II on KIDS' CHOICE[®], CENTER STAGE[®], MEGA TOWER[™], and TOTS CHOICE[®] against structural failure caused by corrosion, defective materials, or defective workmanship.
4. **LIMITED FIFTEEN (15) YEAR WARRANTY** on playsystem steel components including railings, rungs, and rigid climbers against structural failure caused by defective materials or defective workmanship.
5. **LIMITED FIFTEEN (15) YEAR WARRANTY** on Rockite[®] against structural failure caused by defective materials or defective workmanship.
6. **LIMITED TEN (10) YEAR WARRANTY** on all Play Cover[™] steel frames against failure due to corrosion, deterioration, or faulty workmanship.
7. **LIMITED EIGHT (8) YEAR WARRANTY** on Play Terrain[™] Rubber Crumb color steadfastness.
8. **LIMITED FIVE (5) YEAR WARRANTY** on all Play Cover[™] fabric due to rot, UV deterioration (shades of red are limited to 3 years), or defective workmanship.
9. **LIMITED FIVE (5) YEAR WARRANTY** on Kidrox[™] Climbing Rocks and RAINBOW BEND[™] and enclosed waterslide fiberglass sections against structural failure caused by defective materials or defective workmanship. Limited one (1) year warranty on all waterslide and pool slide support structures, stairways, landings, and railings against structural failure caused by defective materials or defective workmanship.
10. **LIMITED THREE (3) YEAR WARRANTY** on Slashproof Seats and 360° Bucket Tot Seats for Swings against structural failure caused by defective materials or defective workmanship.
11. **LIMITED ONE (1) YEAR WARRANTY** on TODDLERS' CHOICE[®] main support materials and decks against structural failure caused by defective materials or defective workmanship.
12. **LIMITED ONE (1) YEAR WARRANTY** on bleachers against structural failure caused by defective materials or defective workmanship.
13. **LIMITED ONE (1) YEAR WARRANTY** on all products not listed above including all moving parts and flexible climbers against structural failure caused by defective materials or defective workmanship.
14. **LIMITED SIX (6) MONTH WARRANTY** on sewn fabric components on Early Childhood products.
15. These limited warranties do not include fading of colors (except on Play Cover[™] and Play Terrain[™] Rubber Crumb), damage due to excessive wear and tear, vandalism, or negligence. These warranties are valid only if products are installed according to manufacturer's installation instructions.
16. All warranties begin on the date of Miracle's invoice. Repaired or replacement part(s) are only warranted for the balance of the original limited warranty.



Poured-in-Place Warranty

FlexiTURF, LLC. All rights reserved. All information contained within subject to change without notice.

Owner:

Five (5) Year Limited Warranty for _____

Job Number _____

Located at _____

FlexiTURF warranty for a period of Five (5) years commencing from the date of substantial completion date of _____ and the warranty shall expire on _____. This limited warranty shall provide for 100% of the cost for necessary repairs caused by the failure of FlexiTURF Poured-in-place surfacing only. This limited warranty includes only FlexiTURF's obligation to repair and/or replace any defective materials or workmanship in the surface area or surface areas that have failed during the warranty period. A failed area/ areas include edge raveling, bubbling, delamination, peeling, and loss of integrity as a result of a failed system.

FlexiTURF is under no obligation or responsibility to repair and/or replace Poured-in-place system due to damage by vandalism, product misuse, abuse or alteration, improper slab or base or sub-base design or construction, improper drainage, improper or lack of maintenance, any foreign residue that may be deposited on the surface, normal wear and tear, damage from sharp objects (high heels, spikes, etc.) or acts of God.

All warranty claims shall be made in writing to FlexiTURF within thirty (30) days after the Owner has knowledge thereof, but in no event later than thirty (30) days after expiration of the warranty period. The written notification from the Owner shall include the following: the date of the first notice of the failure, details of the failure, and photos of the failed area.

FlexiTURF shall then determine the validity of all claims after sufficient evidence has been gathered.

FlexiTURF will then notify and schedule a day to replace/repair the system if covered in warranty.

Any dispute as to whether and to what extent there is a FlexiTURF **Poured-in-place** surfacing system failure and a subsequent valid warranty claim within the meaning of this warranty shall be initially dealt with by a joint investigation and discussion between FlexiTURF and owner in order to achieve a mutually agreeable solution.

This Limited warranty covers ONLY the FlexiTURF **Poured-in-place** system.

This limited warranty does NOT include the underlying material (. existing surface, existing or new asphalt, concrete, base, sub-base or sub-grade). If the underlying material fails for any reason whatsoever (including hydrostatic pressure, cracking, shifting, heaving), A failure in such systems can cause for the failure of FlexiTURF's system. In such cases then FlexiTURF's warranty shall be void. If the underlying material is concrete, a "curing agent" is NOT allowed. Additionally, there is no warranty against surface cracking along expansion joints and underlying cracks, or separating from an adjacent border, curb or walkway. This limited warranty does not include discoloration as a result of ultraviolet rays, unapproved cleaning materials or vandalism.

Owner agrees that it will not, under any circumstances, make alterations to the FlexiTURF **Poured-in-place** surface without the written authorization of FlexiTURF. Any unauthorized alteration by the Owner shall result in the immediate termination of all warranties for FlexiTURF surfacing system.

As a result of alterations FlexiTURF will not be liable for injuries, defamation, or improper CSPC/ ADA guidelines.

Owner acknowledges that the limited warranty will be voided if the Owner fails to follow the FlexiTURF Maintenance Guidelines. NOTE: The following chemicals can cause potential damage to the FlexiTURF system and should be avoided: disinfectants, concentrated bleach, gasoline, diesel, hydraulic and lubricating oils, acids and organic solvents.

If the contract price is not paid in a timely manner as per the terms and conditions of the agreed contract, the limited warranty is automatically voided. Unless noted otherwise in contract, any damages to the surface during the curing period will be repaired or paid for at the Owner's expense.

Owner: _____

Date:_____

FlexiTURF: _____

Date: _____

*By signing, you are stating that you have read and understood all terms and you agree with them.