

# STANDARD CONTRACT

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

GOLF COURSE  
MAINTENANCE AGREEMENT

This **GOLF COURSE MAINTENANCE AGREEMENT** is dated this first day of \_\_\_\_\_, \_\_\_\_ (the "Effective Date") and is between \_\_\_\_\_ (hereinafter sometimes referred to as "**the Club**") a not-for-profit corporation organized under the laws of the State of \_\_\_\_\_ and whose address is \_\_\_\_\_, Florida \_\_\_\_\_ and **PROFESSIONAL TURF MAINTENANCE, INC.** (sometimes hereinafter referred to as "**PTM**"), a corporation organized under the laws of the State of Florida.

## RECITALS

**WHEREAS, PTM** has extensive and varied experience in Golf Course management, maintenance programs and services; and,

**WHEREAS, the Club** owns and operates for the benefit of its members one (1) 18-hole Golf Course (the "Golf Course") located within \_\_\_\_\_, \_\_\_\_\_, Florida \_\_\_\_\_; and,

**WHEREAS, the Club** also owns the property or grounds that are adjacent to its clubhouse and parking lot (the "Common Areas").

**WHEREAS, the Club** also desires to retain the services of **PTM** to maintain the Common Areas.

**WHEREAS, it is the intention of the Club** that **PTM** provide **the Club** with a full turnkey operation for the ordinary care and maintenance of the Golf Course and the Common Areas.

**WHEREAS, the Club** desires to retain the services of **PTM** to manage the maintenance of Golf Course of **the Club**; and,

**WHEREAS, PTM** desires to render the above services to **the Club**.

**NOW, THEREFORE,** in consideration of the above recitals and in good faith, with mutual promises and covenants in this Agreement, the parties agree to the following terms and conditions:

## ARTICLE I - TERM OF CONTRACT

**TERM.** The term of this Agreement shall be for a period of \_\_\_\_\_ (\_\_) years. As the current term is completed, an additional year will be added to the Agreement at an amount mutually agreed

upon by both parties. In effect, **PTM** and **the Club** will always maintain a \_\_\_\_ (\_\_) year Agreement, unless terminated by the terms in Article I, C.

**TERM COMMENCEMENT.** This Agreement shall commence on \_\_\_\_ \_\_, \_\_\_\_ (the Effective Date) and continues until terminated.

**C. TERMINATION.** This Agreement may be terminated prior to the date specified in Article I A upon the earliest date to occur of the following dates:

(1) Ninety (90) days after written notice by one party to the other party of an intention to terminate, with cause, this Agreement;

In the event that a petition in bankruptcy is filed by or against a party;

(3) In the event a party makes or attempts to make an assignment for the benefit of creditors or takes advantage of any insolvency act

(4) Ten (10) business days from the date of a material breach; or,

(5) A date mutually selected by the parties.

It is the specific intent of the parties that if this Agreement is terminated for any reason set forth above, including the exercise by one party of the “ninety (90) day” notice, with cause, then the Agreement shall terminate without damages accruing against either party. In other words, each party agrees hereby, for consideration, that should the other party elect to terminate upon ninety (90) days notice at any point in time during the contract, then except for the monies which become due during that ninety (90) days following the termination, there shall be no other damages.

## ARTICLE II - COMPENSATION

**MONTHLY COMPENSATION.** As consideration for the services rendered under this Agreement by **PTM to the Club, the Club** shall pay **PTM** on the following schedule;

<b>Year 1:</b>	\$ _____	\$ _____ twice each month
<b>Year 2:</b>	\$ _____	\$ _____ twice each month
<b>Year 3:</b>	\$ _____	\$ _____ twice each month

Such payments shall be due on the first and fifteenth day of the month that **PTM** renders its services for **the Club**. In the event such payments are more than five (5) days late, **the Club** shall also pay **PTM** a late fee at the rate of one percent (1%) per month in addition to the monthly payment.

**B. PRORATION.** In the event the Effective Date is a date other than the first day of a calendar month or a date of termination of this Agreement is a date other than the last day of a calendar month, the monthly payment specified in Article II (A) shall be reduced on a pro rata basis.

**C. COMPLETE PAYMENT.** The compensation payable by **the Club** to **PTM** in accordance with this Article II is for the services specified in Article III and represents the sole compensation or charges payable to **PTM** by **the Club**. **PTM** shall not be authorized to render services to **the Club** in addition to those specified in Article III, unless **PTM** and **the Club** (through its Board of Directors) agree in writing to the specific services to be rendered and the specific charges for such services.

**D. INVENTORY CREDITS.** Attached hereto and designated, as Exhibit "A" is an inventory of chemicals and fertilizers, which have been purchased by **the Club** prior to the Effective Date. A dollar amount that is agreed to by **PTM** and **the Club** will be assigned to the inventory and will be kept on record. In the event of termination of the Agreement, another inventory will be taken with a dollar amount assigned to it that is agreed to by **PTM** and **the Club** and any difference in dollar amounts will be paid to the prevailing party. **PTM** will be entitled to use the property designated in Exhibit "A" during the term of the Agreement.

## ARTICLE III - SERVICES OF PTM

**STANDARDS.** With photographic documentation, written specifications, input from the Club, maintenance standards for the Club will be established.

**B. PROGRAM DEVELOPMENT.** **PTM's** team will design a maintenance program that will achieve the goals defined in the maintenance standards. This program will utilize man-hour studies, fertilizer and chemical programs, equipment evaluation, golf course setup and the Club's requirements as it pertains to playing schedules. Pertinent information will be considered concerning location, environment, long-term goals and anything that may have influence on the operation of the maintenance program

**C. CHEMICALS & FERTILIZERS.** **PTM** will conduct turf and soils tests and develop a program utilizing both granular and liquid products to insure consistent turf quality. **PTM** will provide all

chemicals and fertilizers for the Golf Course and Common Areas. **PTM** will insure that all chemicals and fertilizers are used, stored, applied and disposed of in total compliance with all Federal, State and local laws and regulations. All chemicals will be turf-labeled and applied by a licensed applicator. **PTM** shall use reasonable care in the selection of the type of chemicals and fertilizers used, the date of application, etc.

**D. EQUIPMENT/REPAIRS.** It is **the Club's** responsibility to provide the equipment necessary to maintain the Golf Course according to the maintenance standards, however, **PTM** will be responsible for all equipment repairs and maintenance, including parts. **PTM** will keep and maintain detailed maintenance records. **PTM** and **the Club** will jointly decide when a piece of equipment owned by **the Club** becomes inoperable or incapable of repair. In the event such equipment is sold or traded, all proceeds or credit from such a sale or trade will belong to **the Club**.

**E. IRRIGATION.** **PTM** will manage and maintain the irrigation system. **PTM** will be responsible for all irrigation repairs past (downstream of) the clay valve, such repairs and parts to include all clocks, heads, valves, pipe tubing and wire. **PTM** will maintain and service all pump stations, however, **the Club** will be responsible for all parts and replacements to the pump stations.

**F. AQUATIC MANAGEMENT.** **PTM**, as a State Licensed Aquatic Weed Controller, will manage the interior lakes through a comprehensive program based on the vegetation in the waterways of **the Club**. **PTM** will use, at its expense, those chemicals necessary to kill and/or control problem vegetation.

**G. FUELS AND LUBRICANTS.** **PTM** will be responsible for all fuel, lubricants and cleaning products. All used oil lubricants and cleaning products will be disposed of in accordance with all Federal, State and local laws and regulations; provided, however, that any capital expenditures necessary to comply with such laws will be the responsibility of **the Club**.

### ARTICLE III - SERVICES OF PTM

**H. TREE MAINTENANCE.** **PTM** will prune all tree canopies in line of play up to 15 feet in height as necessary for protection and health. Pruning of trees exceeding 15 feet in height will be performed under a separate agreement if applicable. All Sabal and Queen palms, regardless of height, will be pruned and maintained by **PTM**.

**I. LANDSCAPING.** **PTM** will also maintain landscaping and other aesthetic areas located on the Golf Course and in the Common Areas.

(1) **PTM** will supply at its cost topdressing material, seasonal flowers, mulch and pine straw.

**J. SUPPLIES.** **PTM** will provide all replacement hand tools, and other maintenance shop supplies. **PTM** will also provide Golf Course supplies, such as divot sand and buckets, flags, cups, ball washers, trash cans, marking paint, hazard and out-of-bound stakes, signs, rope, trap rakes and other similar Golf Course supplies as and when needed. Golf Course supplies shall become the property of **the Club** when supplied by **PTM**.

**K. LICENSES AND PERMITS.** PTM will render the services there under in compliance with all Federal, State and local laws, ordinances, rules and regulations. PTM will be responsible at its cost for securing and maintaining all Federal, State and local licenses and permits, including those needed in the name of **the Club**, in connection with the operation and maintenance of the Golf Course. PTM will provide **the Club** with documentation of said licenses and permits to **the Club** prior to initialization of the agreement. PTM shall pay any fines or penalties with respect to PTM's failures to comply with such requirements.

**L. SUPERINTENDENT** PTM will, through its experience and contacts in the industry, provide a qualified Superintendent to manage the day to day operations of the maintenance program.

**M. MAINTENANCE STAFF** The PTM team will be responsible for training of the maintenance staff. The direct responsibility falls under the on-site Superintendent, but will be monitored and assisted by the Regional Agronomist, Senior Agronomist and other members of the PTM team as deemed necessary.

(1) PTM shall select, train and supervise, direct and discharge all personnel in connection with the performance of its obligations hereunder.

(2) PTM, as part of its Drug Free Workplace Policy, will conduct random drug and/or alcohol screens on all employees.

(3) PTM will comply with all laws, governmental regulations or other governmental requirements relating to hiring, training, performance and firing of the personnel.

## ARTICLE III - SERVICES OF PTM

### M. MAINTENANCE STAFF

(4) PTM shall use reasonable care in the selection of personnel. The personnel under PTM's management will keep themselves neatly groomed and suitably attired. The personnel shall be courteous to the members of **the Club**. The personnel will not use or consume on the property of **the Club** alcoholic or intoxicating substances, narcotics or other substances which are prohibited or for which a doctor's prescription is required. The personnel shall not enter the property of **the Club** in an intoxicated state or use any substance at any time where such use would impair subsequent job performance or be apparent to members of **the Club**.

**N. TEAM MANAGEMENT** - PTM will maintain a check and balance system to insure adherence to the program and to maintain the level of performance necessary. A PTM Regional Agronomist will visit the site a minimum of once per week. During the visit the Agronomist will tour the Golf Course with the Superintendent to address any problems or concerns that he/she may have. The Agronomist will evaluate the appearance of the course, the progress on any projects, as well as the playability of the course. On a less frequent basis, one of the other PTM team members will visit the site to look at the facility from a different perspective. Through photos, written reports and meetings, the PTM team will determine the best approach to rectify potential problems or adjustments that may be necessary to maintain the highest level of execution possible.

**O. AGRONOMIC VISITS** - In addition, during the weekly visit of the facility, the Regional Agronomist will accompany the Superintendent to inspect the turf for health, root development, pest problems and any other of the numerous factors that determine the best appearance and playability of your

facility. Together (the Superintendent, Regional Agronomist, other members of the **PTM** team, plus any outside resources necessary) will decide on the best products and methodology to develop healthy turf.

**P. ADMINISTRATIVE MANAGEMENT** - **PTM** has a professional staff at its corporate office in Jupiter, Florida that will handle assignments regarding purchasing, invoicing, secretarial, and administrative duties.

**Q. PURCHASING** - **PTM** has "National Account" pricing with several vendors in the industry. **PTM's** team will evaluate the equipment and supplies needed and, in conjunction with **the Club**, design a program that meets the needs of **the Club**.

**R. COMMUNICATION** - **PTM** will meet with **the Club's** General Manager, Committees, etc. to insure accurate communications. **PTM** will educate **the Club** as to what they are doing and why. **PTM** will provide monthly updates to the General Manager of **the Club** regarding the condition of the golf course and common areas, specific maintenance programs, and other similar matters. **PTM's** Superintendent and Regional Agronomist and/or other team members will be available to attend meetings of the management, as directed by **the Club**.

### **ARTICLE III - SERVICES OF PTM**

**S. CONSISTENCY** - It will be **PTM's** responsibility to develop a maintenance program that will execute on a consistent level as defined by the maintenance standards.

**T. COORDINATION** - **PTM** will coordinate its duties hereunder with General Manager at **the Club**. **PTM's** personnel will be available to lend specialized assistance in preparation for, and during, Club-sponsored golf tournaments and other golf outings.

**U. NOT INCLUDED** - The following items are not considered a responsibility of **PTM**:

(1) Material golf course construction such as the rebuilding or relocating of greens or tees, the addition of bunkers, sand for the bunkers (however, **PTM** will dress bunkers for color and playability), the installation of additional sprinkler systems, cart paths and other similar items.

(2) Maintenance of golf carts (other than those utilized by golf course maintenance), parking lot, clubhouse structure, or providing capital expenditures for the maintenance building, rain shelters and restrooms.

(3) Repairs or expenses not in the ordinary and usual course of maintenance of a golf course arising by acts of vandalism or from abnormal acts of God such as hurricanes, tornadoes, hail, freezes and similar calamities.

### **ARTICLE IV - RESPONSIBILITIES OF THE CLUB**

**The Club** will have the following duties:

(1) Pay for the utilities associated with the maintenance of the golf course, including, but not limited to, electric costs, trash removal, etc.

(2) Maintain an open line of communication to enable **PTM** to respond adequately to **the Club's** concerns,

(3) Reasonably cooperate with **PTM** in **PTM's** performance of its duties under this Agreement,

(4) Any cost associated with removal of dead trees, however, **PTM** will participate in removal of an occasional dead tree as long as it does not become a financial burden or it does not interfere with **PTM's** normal operation of maintaining the golf course as stated in the agreement.

## ARTICLE V - MISCELLANEOUS PROVISIONS

A. **INDEMNIFICATION.** **PTM** indemnifies and holds **the Club**, and its directors, officers, employees and agents and all Club members, harmless from all liability, attorneys' fees and expense, arising from related to **PTM's** performance of this Agreement including, without limitation, any liability in connection with any act or omission of **PTM's** personnel or any other person hired, or contracted with, by **PTM**. This Article V, A survives a termination of this Agreement. **The Club** will be listed as "named insured" and **PTM** will provide said documentation to **the Club** prior to initialization of the agreement.

B. **ARBITRATION.** Any disputes arising from lack of performance or default under the terms of this Agreement shall be settled by arbitration in accordance with the rules and procedures of the American Arbitration Association then in effect in Florida. Any decision rendered by the arbitrator(s) shall be final, conclusive and binding upon the Parties, and may be entered as a judgment in a court having jurisdiction thereof. Notice of a demand for arbitration shall be made within a reasonable time after the dispute has arisen.

C. **NO THIRD PARTY RIGHTS.** The provision of this Agreement are for the exclusive benefit of **PTM** and **the Club** and no other party (including any creditors of **PTM** or **the Club**) shall have any right or claim against **PTM** or **the Club** by reason of those provisions or be entitled to enforce any of those provisions against **PTM** or **the Club**.

D. **REPRESENTATION AND WARRANTIES.** Each party represents and warrants to the other party that it is a corporation in good standing under the laws of the State of Florida; that each has the requisite corporate power and authority to enter into and perform this Agreement; that the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action; that this Agreement constitutes valid and legally enforceable obligations against a party and no consent, approval, waiver or other action by any third party is required in connection with the execution, delivery and performance of this Agreement; and that the execution, delivery and performance of this Agreement does not conflict with, violate or constitute a breach of any other agreement or obligation to which a party may be bound or affected.

E. **GOVERNING LAWS.** This Agreement shall be governed by the laws of the State of Florida and the proper venue in any court in Brevard County, Florida.

F. **CAPTIONS.** Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope of this Agreement or any provision thereof.

G. **NON-ASSIGNABILITY.** This Agreement may not be assigned by a party without the written consent of the other party.

H. **SEVERABILITY.** If any provision of this Agreement shall be held invalid or un-enforceable, the remainder of the Agreement shall not be affected thereby.

## ARTICLE V - MISCELLANEOUS PROVISIONS

I. **CONSTRUCTION.** This Agreement shall be interpreted without regard to any presumption or rule requiring construction against the party causing this Agreement to be drafted. **PTM and the Club** agree that this Agreement was drafted mutually.

J. **ENTIRE AGREEMENT; AMENDMENT.** This Agreement constitutes the entire Agreement between the parties, whether oral or written. The parties may amend this Agreement, but no amendment shall be effective unless it is in writing and duly executed by both parties.

K. **SUCCESSORS.** Except as otherwise specifically provided herein, this Agreement is binding upon and insures to the benefit of the parties, hereto and their respective legal representatives, successors and assigns.

L. **INDEPENDENT CONTRACTORS.** It is the intention of the parties hereto to create a relationship wherein **PTM** is an independent contractor and **the Club** is the beneficiary of **PTM's** services rendered under this Agreement. **PTM**, its employees and agents shall be considered independent contractors and not employees of **the Club**. Nothing in this Agreement shall be construed as creating the relationship of employer-employee, or establishing a partnership, joint venture or other similar relationship. **PTM** shall be free to contract for similar services to be performed for other entities while it is under contract with **the Club**, providing that such other contracts shall not interfere with the performance of **PTM's** obligations under this Agreement.

M. **ATTORNEY'S FEES.** In connection with any litigation or arbitration arising out of, or concerning, this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred including attorneys' fees through appellate and post-judgment proceedings.

