

PIONEER SANDS LLC TERMS & CONDITIONS OF SALE

Orders and Acceptance. All Purchase Orders ("Orders") and quotations submitted by buyer ("Buyer") are subject to acceptance by Pioneer Sands LLC ("Pioneer"). Unless otherwise stated, all sales transactions are expressly limited to the terms and conditions set forth below. All terms and conditions (including, but not limited to, additional and/or different terms and conditions) contained in any of Buyer's purchase orders or other documents submitted by Buyer are EXPRESSLY rejected. No waiver of these Terms and Conditions or acceptance of other terms and conditions shall be construed from Pioneer's failure to object to the same. All sales are final. Material cannot be returned without Pioneer's prior written consent.

Quotations and Published Prices. All written quotations shall automatically expire on the expiration date listed on the quotation, but in no event later than thirty (30) days after issuance, and are subject to withdrawal by notice within that period. Pioneer, at its sole option, may extend the effective date of written quotations up to six (6) months. Oral quotations shall expire in thirty (30) days. All quote prices for material sold by Pioneer pursuant to any Order ("Material") are F.O.B. stated shipping point, unless otherwise specified. Transportation shall be by means that are commercially reasonable and customary and at Buyer's expense. Delivered prices are based on transportation prices available to Pioneer at time of quotation and assume that trucks are able to discharge their loads at the delivery site within a reasonable time. If unloading delays occur, additional charges may apply. Any charges at destination for spotting, stitching, handling, storage and other services and demurrage shall be for Buyer's account. Pricing of aggregate assumes normal residual moisture content, including free moisture in the case of washed Material. Prices shown on published price lists and other literature issued by Pioneer do not represent unconditional offers to sell, and are subject to change without notice.

Payment. Unless alternate payment terms are specified or approved by Pioneer's credit department, payment shall be made thirty (30) days from the date of Pioneer's invoice to Buyer. If Pioneer has reason to believe that Buyer's financial condition or ability to perform its obligations under this Order is unsatisfactory, Pioneer may require cash in advance or other payment terms, shipping documents, or cancel this Order. No discounts are allowed for early payment, unless otherwise specified on the face of any Order. Past due invoices are subject to a monthly service charge at a rate equal to the lesser of 1½% per month or the maximum rate from time to time permitted by applicable law. Upon placing this instrument with an attorney for collection of past due payments or repossession of Material, Buyer shall reimburse Pioneer for attorney's fees, court costs, and other expenses incurred by Pioneer to enforce the terms and conditions stated herein.

Taxes. Pioneer's prices do not include federal, state, or local taxes, including sales, use, property, import/export, value added, excise or similar taxes. Pioneer shall bill as a separate invoice line item all such taxes and Buyer agrees to pay and/or reimburse Pioneer for any such applicable taxes.

Order Changes/Cancellation. Requested changes to Orders are subject to Pioneer's approval and acceptance. Buyer shall reimburse Pioneer for all additional costs and expenses related to any such change. Buyer's cancellation of any standard Material Order is subject to Pioneer's receipt of Buyer's prior written notice not less than thirty (30) days before any Material is shipped. In the event of any whole or partial cancellation of any Order by Buyer, Buyer shall pay to Pioneer the reasonable costs and expenses incurred by Pioneer prior to Pioneer's receipt of the cancellation notice plus Pioneer's usual rate of profit for similar Material on the portion of the Order canceled.

Shipping. Materials shall be shipped F.O.B. Pioneer's facility. Unless otherwise specified, title to and risk of loss of the Material shall pass to Buyer upon Pioneer's delivery of the Material to a carrier or directly to Buyer at the F.O.B. point, or upon removal from Pioneer's plant or terminal if the F.O.B. point is a location other than Pioneer's plant. Unless otherwise stated, Pioneer's prices do not include shipping charges. Pioneer will use its best efforts to load Buyer's trucks, rail cars or barges, provided that Pioneer will not over load any such vessels and shall not be liable for overweight charges or fines, minimum charges for light loaded cars or trucks, or for demurrage or other charges associated with shipping the Material to Buyer.

Deliveries/Access. All delivery/performance dates indicated on Pioneer's documents are approximate and are based upon the prompt receipt of all necessary information from Buyer regarding any Material ordered. Buyer agrees to provide Pioneer with reasonable advance notice of Material requirements, time and rate of delivery. Pioneer will use reasonable efforts to meet the indicated delivery/performance dates, but shall not be held responsible for delays caused by carriers. In the event of any delivery delay caused by Buyer, Pioneer will store and handle all Material ordered at Buyer's risk and will invoice Buyer for the unpaid portion of the contract price plus storage, insurance and handling charges on or after the date on which the Material is ready for delivery. Buyer shall provide suitable roadways or approaches to points of delivery. If delivery is requested beyond the curb line, Buyer assumes all liability for damage to sidewalks, driveways or other property. Buyer must arrange in advance with Pioneer's dispatcher for deliveries of Material at times other than normal working hours which may result in extra charges.

Inspection & Acceptance. In the case of deliveries made in large individual loads, such as by rail or barge, any inspection by Buyer must be made at the point of loading. Buyer may, at its expense, have a representative at Pioneer's facility for the purpose of such inspection. On bulk shipments, claims may not be made for shortages of less than 0.5% of the net weight. Delivery of within 5% of the quantity requested, as weighed on Pioneer's certified scales, shall be accepted by Buyer as complying with the Order, although Buyer must pay for only the quantity actually delivered.

Security Interest. Until such time as Pioneer is fully paid for Material shipped, Buyer shall grant to Pioneer a purchase money security interest in the Material. Buyer will assist Pioneer in taking necessary action to protect Pioneer's security interest. All checks or other commercial paper shall be accepted subject to collection, and the foregoing security interest shall remain until such time as funds are actually collected. Should Buyer commit a breach of any of these Terms and Conditions, be named as a debtor in a bankruptcy proceeding, or become insolvent; should Buyer, or any of its assets, be the subject of a receivership proceeding; or should any creditor or other person or entity attach or levy Buyer's property or equipment, Pioneer shall immediately have the right, without notice and without liability for trespass or damages, to retake and remove any of its Material for which Pioneer has not yet been paid wherever it may be found.

Warranty. Pioneer warrants to Buyer that all Material supplied by Pioneer is in compliance with Pioneer's published specifications at the point of shipment from Pioneer's facility. If Material sold by Pioneer fails to meet the foregoing warranty, Pioneer will at its sole option either: (1) refund the amount received by Pioneer for defective Material, or (2) replace any defective Material free of charge. The foregoing is contingent upon Buyer testing a sample of the Material provided to Buyer upon delivery and Pioneer receiving Buyer's prompt written notice of any defect prior to the unloading of the Material at Buyer's facility. After the Material is unloaded at Buyer's facility or title has passed (whichever occurs first), Pioneer shall have no further warranty obligations under these Terms and Conditions. Buyer acknowledges that Material may degrade by improper handling after leaving Pioneer's facility or terminal, or from time to time may contain impurities that render the Material unacceptable for certain applications and that all such Material is excluded from the warranties stated herein. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PIONEER'S WARRANTY DOES NOT APPLY IF MATERIALS HAVE BEEN SUBJECT TO MISUSE, MISHANDLING, NEGLIGENCE (INCLUDING, WITHOUT LIMITATION, IMPROPER STORAGE), ACCIDENT OR MODIFICATION NOT EXPRESSLY AUTHORIZED BY PIONEER. FURTHER, PIONEER'S WARRANTY OBLIGATIONS UNDER THIS PARAGRAPH SHALL TERMINATE IF: (1) BUYER FAILS TO PERFORM ITS OBLIGATIONS UNDER THESE TERMS AND CONDITIONS; OR (2) BUYER FAILS TO PAY ANY CHARGES DUE PIONEER. THIS WARRANTY CONTAINS PIONEER'S SOLE LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDIES AND IS EXPRESSLY IN LIEU OF ALL OTHER REMEDIES BASED IN LAW OR EQUITY.**

Limitation of Liability. EXCEPT FOR ITS INDEMNITY OBLIGATIONS, IN NO EVENT SHALL PIONEER'S LIABILITY FOR ANY CAUSE OF ACTION WHATSOEVER EXCEED THE PURCHASE PRICE OF THE MATERIAL UNDER THE ORDER GIVING RISE TO THE CLAIM, WHETHER BASED ON CONTRACT, WARRANTY, OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER SUCH INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUES, PROFITS OR OPPORTUNITIES), WHETHER ARISING OUT OF OR AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

Insurance and Indemnification. Buyer, at its own expense, shall maintain insurance coverage that a reasonably prudent person similarly situated would maintain and that, at a minimum, includes, without limitation, worker's compensation, employer's liability, public liability, and commercial general liability (including, but not limited to, products and completed operations liability and bodily injury and property damage liability) with limits of not less than one million dollars (\$1,000,000) per occurrence. All insurance coverage carried by Buyer shall name each member of Pioneer Group (as defined below) as an "additional insured" so that said insurance be made to extend to and protect Pioneer Group to the same extent Buyer is covered relative to transactions governed by these Terms and Conditions. Said insurance coverage shall also be primary as to any other existing, valid and collectible insurance otherwise available to Pioneer, and shall be endorsed to waive, to the extent beneficial to Pioneer Group but not otherwise, any and all claims by the underwriters or insurers against Pioneer Group relative to transactions governed by these Terms and Conditions.

"Claim(s)" shall mean all claims, demands, causes of action, and liability of every kind and character, including all expenses of litigation or claims, court costs, and attorney's fees.

"Pioneer Group" shall mean Pioneer, its parent, affiliates and subsidiaries, and their respective contractors and subcontractors (of any tier), and/or all agents, officers, directors, and employees of each of the foregoing.

"Buyer Group" shall mean Buyer, its parent, affiliates, and subsidiaries, and their respective contractors and subcontractors (of any tier), and/or all agents, officers, directors, and employees of each of the foregoing.

(a) (i) BUYER AGREES TO AND SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS PIONEER GROUP FROM AND AGAINST ANY AND ALL CLAIMS ON ACCOUNT OF BODILY INJURY, DEATH, AND/OR PROPERTY DAMAGE, THAT MAY BE MADE OR ASSERTED BY ANY MEMBER OF BUYER GROUP, ARISING OUT OF, RESULTING FROM, OR IN ANY WAY INCIDENTAL TO, DIRECTLY OR INDIRECTLY, THESE TERMS AND CONDITIONS (INCLUDING, BUT NOT LIMITED TO, THOSE ACTUALLY OR ALLEGEDLY CAUSED BY THE FAULT OR STRICT LIABILITY OF PIONEER GROUP, THE UNSEAWORTHNESS OR UNAIWORTHINESS OF ANY VESSEL, CRAFT OR PLATFORM, OR THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OF ONE OR MORE MEMBERS OF PIONEER GROUP). This indemnification obligation shall

be supported by all liability insurance maintained by Buyer for the applicable policy period with policy limits equal to the lesser of: (1) the total limits of all liability insurance, including, but not limited to, the insurance required to be procured by Buyer in the paragraph above, purchased by Buyer for the applicable policy period; or (2) the total limits of all liability insurance purchased by Pioneer for the applicable policy period. If it is judicially determined that the monetary limits of insurance supporting the indemnities voluntarily and mutually assumed under this paragraph exceed the maximum limits permitted under applicable law, it is agreed that said insurance requirements or indemnities shall automatically be amended to conform to the maximum monetary limits permitted under such law. The insurance provided in support of these indemnity obligations shall, however, in no way limit Buyer's indemnity obligations hereunder save and except to the extent necessary, if any, to prevent said indemnification obligations from being declared void, unenforceable or otherwise inoperative.

(ii) PIONEER AGREES TO AND SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS BUYER GROUP FROM AND AGAINST ANY AND ALL CLAIMS ON ACCOUNT OF BODILY INJURY, DEATH, AND/OR PROPERTY DAMAGE, THAT MAY BE MADE OR ASSERTED BY ANY MEMBER OF PIONEER GROUP ARISING OUT OF, RESULTING FROM, OR IN ANY WAY INCIDENTAL TO, DIRECTLY OR INDIRECTLY, THESE TERMS AND CONDITIONS (INCLUDING, BUT NOT LIMITED TO, THOSE ACTUALLY OR ALLEGEDLY CAUSED BY THE FAULT OR STRICT LIABILITY OF BUYER GROUP, THE UNSEAWORTHNESS OR UNAIWORTHINESS OF ANY VESSEL, CRAFT OR PLATFORM, OR THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OF ONE OR MORE MEMBERS OF BUYER GROUP). This indemnification obligation shall be supported by all liability insurance maintained by Pioneer for the applicable policy period with policy limits equal to the lesser of: (1) the total limits of all liability insurance purchased by Pioneer for the applicable policy period; or (2) the total limits of all liability insurance, including, but not limited to, the insurance required to be procured by Buyer in the paragraph above, purchased by Buyer for the applicable policy period. If it is judicially determined that the monetary limits of insurance supporting the indemnities voluntarily and mutually assumed under this paragraph exceed the maximum limits permitted under applicable law, it is agreed that said insurance requirements or indemnities shall automatically be amended to conform to the maximum monetary limits permitted under such law. The insurance provided in support of these indemnity obligations shall, however, in no way limit Pioneer's indemnity obligations hereunder, save and except to the extent necessary, if any, to prevent said indemnification obligations from being declared void, unenforceable or otherwise inoperative.

b. NOTWITHSTANDING ANYTHING CONTAINED IN THESE TERMS AND CONDITIONS TO THE CONTRARY, BUYER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS PIONEER GROUP FROM AND AGAINST ANY AND ALL CLAIMS ASSERTED BY OR IN FAVOR OF ANY PERSON, PARTY, OR ENTITY (INCLUDING ANY MEMBER OF PIONEER GROUP) RESULTING FROM: (i) LOSS OF OR DAMAGE TO ANY WELL OR HOLE (INCLUDING, BUT NOT LIMITED TO, THE COSTS OF RE-DRILL); (ii) BLOWOUT, FIRE, EXPLOSION, CRATERING OR ANY UNCONTROLLED WELL CONDITION (INCLUDING, BUT NOT LIMITED TO, THE COSTS TO CONTROL A WELL AND THE REMOVAL OF DEBRIS); (iii) DAMAGE TO ANY RESERVOIR, GEOLOGICAL FORMATION OR UNDERGROUND STRATA OR THE LOSS OF OIL, WATER OR GAS THEREFROM; (iv) POLLUTION OR CONTAMINATION OF ANY KIND INCLUDING, BUT NOT LIMITED TO, THE COST OF CONTROL, REMOVAL AND CLEAN-UP; OR (v) DAMAGE TO, OR ESCAPE OF ANY SUBSTANCE FROM, ANY PIPELINE, VESSEL, OR STORAGE OR PRODUCTION FACILITY (INCLUDING, BUT NOT LIMITED TO, THOSE ACTUALLY OR ALLEGEDLY CAUSED BY THE FAULT OR STRICT LIABILITY OF PIONEER GROUP, THE UNSEAWORTHNESS OR UNAIWORTHINESS OF ANY VESSEL, CRAFT OR PLATFORM, OR THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OF ONE OR MORE MEMBERS OF PIONEER GROUP).

c. BUYER HEREBY AGREES TO AND SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS PIONEER GROUP FROM AND AGAINST ANY AND ALL CLAIMS FOR PERSONAL INJURY, ILLNESS, DEATH (INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, ILLNESS OR DEATH RESULTING FROM OR ALLEGED TO RESULT FROM INHALATION OF SILICA DUST), OR PROPERTY DAMAGE TO ANY THIRD PARTY (OTHER THAN ANY MEMBER OF BUYER GROUP) RELATED TO THE MATERIAL PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, ANY PRODUCT DEFECT PRESENT OR ALLEGED TO BE PRESENT IN ANY PRODUCT SUPPLIED BY PIONEER GROUP, TO THE EXTENT OF THE ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF BUYER GROUP.

WARNING: WARNING! MATERIAL SOLD PURSUANT TO THIS ORDER MAY CONTAIN FREE SILICA. IN SUCH CIRCUMSTANCES, SEE THE SAFETY DATA SHEET, WARNINGS, AND DO NOT BREATHE DUST. If you breathe fine silica dust possibly contained in the Material, you may suffer severe, irreversible lung damage (silicosis) and death. Some medical reports state inhalation of silica dust may cause lung cancer. Medical reports also link breathing silica dust to crippling rheumatoid arthritis and other autoimmune diseases and an increased risk of lung infections, tuberculosis and skin and eye irritation. NEVER USE MATERIAL CONTAINING SILICA DUST WITHOUT NIOSH/MSHA APPROVED RESPIRATORY PROTECTIVE EQUIPMENT. Do not breathe dust. Do not rely on your sight to determine if dust is in the air. Respirable crystalline silica dust may be in the air without a visible dust cloud. Use dust monitoring to determine the level of respiratory protection for your workplace. Keep airborne dust concentrations below permissible exposure limits. Do not use for abrasive blasting. Read Safety Data Sheet for more information.

Any technical information or assistance that Pioneer or its affiliates provides is given and accepted at Buyer's risk and is not a warranty or a specification. Buyer agrees that it will familiarize itself with all hazards and precautionary procedures with respect to the handling, transportation or use of the Material and will manage the Material accordingly. Buyer will provide or make available any product safety information provided by Pioneer or its affiliates to Buyer's employees, to all others who handle the Material, and to its customers.

Pioneer's Premises. While on Pioneer's premises, Buyer's employees, invitees, and subcontractors (including subcontractors or carriers used for the purpose of transporting Material) shall be subject to and shall observe such safety and other rules and regulations as Pioneer may then have in force at such premises. Buyer shall confine its employees, invitees, and subcontractors to that portion of Pioneer's premises where work is to be performed and to such in-plant roads leading to and from such site as Pioneer authorizes Buyer to use. Buyer shall assume sole responsibility for the safety of, and shall take all necessary measures and precautions at all times to prevent injury to, its employees, subcontractors' employees and others who enter upon Pioneer's premises for reasons relating to this Order. Buyer shall also take all necessary measures and precautions to protect, and to avoid damage to or loss of, property while on Pioneer's premises. Compliance with MSHA, OSHA, or any other regulatory agency rules is a condition of entry onto Pioneer's property.

Excuse of Performance. Neither party shall be liable for any delay or failure to perform to the extent caused by fire, flood, explosion, war, riot, embargo, labor dispute, shortage of utilities, material or labor, delay in transportation, compliance with any laws, regulations, orders, acts or requirements from the government, civil or military authorities, acts of God or the public enemy, or any act or event of any nature reasonably beyond such party's control. In such circumstances, Buyer or Pioneer may cancel the portion of this Order subject to such delay by giving prompt written notice, provided that such cancellation shall apply only to that portion of the Order affected by the foregoing circumstances and the balance of the Order shall continue in full force and effect. If Pioneer's Material production capacity is impaired as a result of one of the foregoing events of force majeure, then Pioneer may allocate to Buyer a pro rata portion of Pioneer's total remaining capacity, taking into account Pioneer's impaired Material production capacity, Buyer's requirements pursuant to this Order, and Pioneer's aggregate customer requirements for Material.

Waiver. No condoning, excusing or waiver by any party of any default, breach or nonobservance by any other party at any time or times with respect to any covenants or conditions set forth herein shall operate as a waiver of that party's rights with respect to any continuing or subsequent default, breach or nonobservance, and no waiver shall be inferred from or implied by any failure to exercise any rights by the party having those rights.

Severability. Should any provision of these Terms and Conditions be declared by any court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected thereby, it being the intent of the parties that they would have executed the remaining portion without including any such part or portion which may for any reason be declared invalid.

Governing Law. These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Texas (excluding its conflict of laws provisions), including the provisions of the Uniform Commercial Code in Texas. Each party submits to the jurisdiction of the state and federal courts of Dallas County, Texas, in connection with any dispute arising under these Terms and Conditions.

Entire Agreement/Amendment. Pioneer and Buyer agree that the terms and conditions set forth herein constitute their complete and exclusive agreement regarding the subject matter of this Order and supersede any prior communications, representations or agreements of the parties, whether oral or written, and cannot be altered, amended, or modified except in writing and executed by an authorized representative of each party.

Assignability. Neither party may sell, assign, or transfer its rights, duties, or obligations under these Terms and Conditions without the prior written consent of the other; provided, however, that Pioneer reserves the right to assign its rights, duties and obligations to any party purchasing substantially all of Pioneer's assets. To the extent that assignment is permitted, these Terms and Conditions shall inure to the benefit of and be binding upon each party and its permitted successors and assigns.

Export. Buyer warrants and covenants to Pioneer that it will not, directly or indirectly, export or ship Material to, or engage in transactions involving Material with, any individual, company or entity (i) or in a country sanctioned by the United States, or (ii) listed as a Specially Designated National or Blocked Person by the United States Office of Foreign Assets Control.