

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Charles Lee
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1120

Description	Qty	Rate	Total
Cost is based on 2022 Prices. Project Name: Charles Lee ES Scope of Work: Provide equipment as outlined per below:			
Playcraft NE XM Portal Tower, 5-12 age-group	1	51,791.00	51,791.00T
Playcraft Double UltraZip (one ADA seat), 5-12 age-group	1	27,271.00	27,271.00T
Playcraft PC2181-8, 8ft Single Post Swing (2 bay with 4 belt seats), 5-12 age-group	1	3,055.00	3,055.00T
Playcraft PC2472 Spin Max Orbit	1	22,351.00	22,351.00T
Playcraft PC2015, Disc Swing 2-12 age-group	1	5,880.00	5,880.00T
Sub-total			110,348.00
CMAS co-op discount, CMAS Contract ID 4-19-78-0095A		-11,050.00	-11,050.00
Steel & Plastics Tariffs Surcharge: Rapid increases in the cost of commodities has caused the manufacturer to add an emergency surcharge to its products to cover the increased cost of raw materials.	1	14,290.00	14,290.00
Freight & delivery costs, Playground equipment	1	6,703.69	6,703.69
Project administration, overhead costs, no charge	1	0.00	0.00
EXCLUSIONS: Labor, unloading of equipment or handling of any kind. Required Statement for California Projects: Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a latent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826. This Contract is executed between Pacific Play Systems, Inc., a California corporation and Customer (also referred to as Owner), identified in the Customer section of this Contract. Either Customer or Pacific Play Systems, Inc. may be referred to as Party, together as Parties. The purpose of this Contract is for Pacific Play Systems, Inc. to provide Customer with equipment, materials and/or services as outlined in the Scope of Work section of this Contract in exchange for the sum of money as outlined in this Contract.			

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.

Total

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Charles Lee
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1120

Description	Qty	Rate	Total
<p>By signing below, both Parties acknowledge that they are entering into a legally binding Contract, which includes Exhibit B. Customer acknowledges the receipt and review of Exhibit B (Terms and Conditions) which shall be made a part of this Contract and enforceable to the full extent allowed by law.</p> <p>ACCEPTED BY CUSTOMER: Customer's Name: _____ Date accepted: _____ Signature: _____ Signed By: _____</p> <p>ACCEPTED BY PACIFIC PLAY SYSTEMS, INC.: Federal Tax I.D. #: 27-4620108 - DIR No. 1000012253 Date accepted: <u>10/28/2022</u> California Contractors License #957776, Classifications: A, B, C61-D12, C61-D34</p> <p>Signature: <u></u> Signed By: Alexandre Campos CA Sales Tax, Los Angeles County VP, Design Mgt.</p>		9.50%	9,433.31

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.	Total	\$129,725.00
---	--------------	---------------------

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 10-01-2022)

1. **ACTS OF GOD:** In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, interruption of electrical power or other utilities, shortages of materials and/or labor, manufacturing issues or delays beyond its control, failures or damage reasonably beyond its control, pandemic related issues, or other causes reasonably beyond its control, such party shall not be liable to the other party for any damages resulting from such failure to perform or otherwise from such causes. Pacific Play Systems, Inc. and Customer shall notify each other as soon as reasonably possible following the occurrence of an event described in this subsection.
2. **ASSIGNMENT:** Purchaser may not assign this Purchase Agreement (hereafter referred to as Agreement), by operation of law or otherwise, without the prior written consent of Pacific Play Systems, Inc. This Agreement shall be binding upon and inure to the benefit of Pacific Play Systems, Inc. and the Purchaser, and their successors and permitted assigns.
3. **ATTORNEY FEES & EXPENSES:** In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs of suit, including any fees and costs incurred in preparation of such suit.
4. **COST ESCALATION CLAUSE:** Given the recent dramatic increases in the cost of materials and freight, if Pacific Play's cost of materials and/or freight associated with this project increases by over 5% by the time this project gets installed, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Customer completely fulfills his or her obligations under this Contract for the scope identified, including making timely payments per Payment Terms of Contract. Customer's failure to pay amounts due under this Contract in a timely fashion or reducing the scope of work shall constitute forfeiture of all discounts provided under this Contract and shall increase Contract sum by the amounts of discounts provided.
6. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
7. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of California. Jurisdiction shall be the County of San Diego, North County Judicial District.
8. **INDEMNIFICATION:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Pacific Play Systems, Inc. and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the sale and installation of equipment and/or materials sold by Pacific Play Systems, Inc., provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or sub-contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim,



damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

9. **INSURANCE REQUIREMENTS:** Pacific Play Systems, Inc. will not provide any insurance coverage in excess of Pacific Play Systems, Inc.'s standard insurance policies. A copy of the Pacific Play Systems, Inc.'s standard insurance policies is available for Purchaser's review prior to acceptance of this Agreement.

10. This Purchase Agreement excludes any labor of any kind or handling of equipment or materials. Purchaser shall be responsible for proper installation of equipment and materials purchased per manufacturer's installation instructions and shall not be entitled to back charge Pacific Play Systems for any installation errors, delays, installation, or labor related issues, etc. no matter what the reason is.

10. **LIABILITY LIMIT:** To the extent permitted by law, Pacific Play Systems' liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any products or services covered by or furnished under this Agreement, shall in no case exceed the price of the products, services or parts thereof which gives rise to this claim. In no event shall Pacific Play Systems, Inc. be liable for special, incidental or consequential damages, or for damages in the nature of penalties.

11. **LEAD TIME:** Unless otherwise noted, due to continuing supply chain issues and materials shortages, lead time for delivery of equipment is approximately 32 weeks (+/-) AFTER receipt of a signed Contract, deposit and color selection from the Customer. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and different products, depending on product, size and Scope of Work.

12. **MAINTENANCE:** Customer shall be responsible for maintenance and upkeep of all acquired equipment and materials associated with this Contract, including but not limited to maintenance of equipment, materials, surfacing, drainage system, etc. Playground equipment and surfacing require daily, weekly and monthly inspections. It is common that some bolts may come loose after the initial installation and some use, particularly in moving parts. It shall be Customer's responsibility to inspect for loose or missing hardware and attend to it as needed.

13. **NOTICES:** All notices required by this Agreement shall be in writing and be delivered via email, United States Certified Mail, addressed to the party to whom such notices are directed. Either party may change its address for notices hereunder by giving notice to the other party in the same manner as provided herein.

14. **OWNERSHIP:** Once equipment and/or materials are delivered to the Purchaser's premises, it is considered delivered and Purchaser shall become responsible for its security. All costs associated with replacement of vandalized and/or stolen equipment, materials shall be Purchaser's responsibility.

15. **PAYMENT TERMS:** All payments are due per Contract 's Payment Terms. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If payments are not received on time and collection becomes necessary, aside from adding interest, all discounts provided shall be reversed and added to the contract sum and Pacific Play Systems, Inc. shall be entitled to collection costs incurred plus attorneys' fees & expenses to the full extent allowed by the



applicable laws. Additionally, Pacific Play Systems, Inc. may suspend all warranties until such time that all past due balances, interest and fees are paid in full.

16. RETURNS: Equipment, materials associated with this Contract are highly customized and shall be considered Non-Returnable. Once the Contract is signed and equipment, materials and services are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Contract, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change involving a reduction in the Scope of Work or the Contract Sum after the award of Contract, Pacific Play Systems, Inc. shall be entitled to charge the Customer a fee 30% of the cost of items deleted for the time and effort put forth into processing those items. Additionally, any discounts associated with the deleted items shall be reversed.

17. SEVERABILITY: Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

18. SHADE STRUCTURES: Shade structures, shade sails, umbrellas, shelters and canopies (hereafter referred to as Shade Structures) included in the Scope of Work (if any) are non-engineered (no calculations or engineering drawings are provided), non-structural (not rated for fire, wind or earthquakes), unless otherwise noted in writing. Non-engineered, non-structural Shade Structures are considered temporary structures and will not be suitable for installation at locations that require obtaining a permit. It shall be Customer's responsibility to determine if a permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Contract so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is instructed to obtain a permit, all associated engineering costs shall be billed at cost plus 20% as well as staff time at the rate of \$120/hour, plus all applicable costs, permit fees, etc.

19. SHORT SHIP CLAIMS: Purchaser has five (5) days from receipt of the equipment and/or materials to file a short ship or damage report in writing to its sales representative. Pacific Play Systems, Inc. will not honor claims made after this time.

20. STORAGE FEES: If the project is delayed for any reason due to factors beyond Pacific Play Systems, Inc. control, Customer shall become responsible for paying storage fees billed at cost plus 20%. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost plus 20%.

21. SUCCESSION & ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. A Party may not assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party. Purchaser shall not assign this Agreement to any third-party implementation agencies such as property management companies, contract compliance agencies, etc. without the prior written consent of Pacific Play Systems, Inc.

22. TERMINATION: This Contract shall not be terminated by either party without material cause. Pacific Play Systems, Inc. may terminate this Contract with Customer for lack of payment and for other material breach, if not cured within 10 days of receipt of a written notice to Customer. If this Contract is terminated by any party for any reason, Customer shall remain fully liable for the cost of equipment and



materials ordered, administrative and other time spent on the project and for services rendered to the full extent allowed by law.

23. **THIRD-PARTY BENEFICIARIES:** This Agreement creates no third-party rights or obligations between Pacific Play Systems, Inc. and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

24. **WARRANTY:** Equipment warranties are provided by the equipment manufacturers and not by Pacific Play Systems, Inc. Material warranties are provided by the supplier of materials and not by Pacific Play Systems, Inc. When available, Pacific Play Systems, Inc. shall provide copies of equipment and material warranties to Purchaser upon request. Customer acknowledges that moving parts (spinners, zip lines, track rides, rope connections, swings, etc.) may require regular maintenance in order to stay operational. Pacific Play Systems shall not be responsible for the maintenance of these items which may involve tightening of bolts, connections, etc.



CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Dalton ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1121

Description	Qty	Rate	Total
Cost is based on 2022 Prices. Project Name: Dalton ES Scope of Work: Provide equipment as outlined per below:			
Playcraft PR#NF5B8467A1, Custom 5" OD Steel Play System, 5-12 age-group	1	43,633.00	43,633.00T
Playcraft PC 2181-7, 7ft Single Post Swings (6 Belt Seats), 2-12 age-group	1	4,400.00	4,400.00T
Playcraft PC 2015, Disc Swing, 2-12 age-group	1	5,880.00	5,880.00T
Playcraft PC2476, Spin Max Orbit, 5-12 age-group	1	22,351.00	22,351.00T
Playcraft PC2410, Snake Balance Beam, 5-12 age-group	1	751.00	751.00T
Playcraft Traverse Tack Ride Dual, 5-12 age-group	1	6,846.00	6,846.00T
Sub-total			83,861.00
CMAS co-op discount, CMAS Contract ID 4-19-78-0095A		-8,390.00	-8,390.00
Steel & Plastics Tariffs Surcharge: Rapid increases in the cost of commodities has caused the manufacturer to add an emergency surcharge to its products to cover the increased cost of raw materials.	1	10,860.00	10,860.00
Freight & delivery costs, playground equipment	1	6,389.25	6,389.25
Project administration, overhead costs, no charge	1	0.00	0.00
EXCLUSIONS: Labor, unloading of equipment or handling of any kind. Required Statement for California Projects: Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a latent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826. This Contract is executed between Pacific Play Systems, Inc., a California corporation and Customer (also referred to as Owner), identified in the Customer section of this Contract. Either Customer or Pacific Play Systems, Inc. may be referred to as Party, together as Parties. The purpose of this Contract is for Pacific Play Systems, Inc. to provide Customer with equipment, materials and/or services as outlined in the Scope of Work section of this Contract in exchange for the sum of money as outlined in this Contract.			

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.

Total

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Dalton ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1121

Description	Qty	Rate	Total
<p>By signing below, both Parties acknowledge that they are entering into a legally binding Contract, which includes Exhibit B. Customer acknowledges the receipt and review of Exhibit B (Terms and Conditions) which shall be made a part of this Contract and enforceable to the full extent allowed by law.</p> <p>ACCEPTED BY CUSTOMER: Customer's Name: _____ Date accepted: _____ Signature: _____ Signed By: _____</p> <p>ACCEPTED BY PACIFIC PLAY SYSTEMS, INC.: Federal Tax I.D. #: 27-4620108 - DIR No. 1000012253 Date accepted: <u>10/28/2022</u> California Contractors License #957776, Classifications: A, B, C61-D12, C61-D34</p> <p>Signature: <u></u> Signed By: Alexandre Campos CA Sales Tax, Los Angeles County VP, Design Mgt.</p>		9.50%	7,169.75

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.	Total		\$99,890.00
---	--------------	--	--------------------

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 10-01-2022)

1. **ACTS OF GOD:** In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, interruption of electrical power or other utilities, shortages of materials and/or labor, manufacturing issues or delays beyond its control, failures or damage reasonably beyond its control, pandemic related issues, or other causes reasonably beyond its control, such party shall not be liable to the other party for any damages resulting from such failure to perform or otherwise from such causes. Pacific Play Systems, Inc. and Customer shall notify each other as soon as reasonably possible following the occurrence of an event described in this subsection.
2. **ASSIGNMENT:** Purchaser may not assign this Purchase Agreement (hereafter referred to as Agreement), by operation of law or otherwise, without the prior written consent of Pacific Play Systems, Inc. This Agreement shall be binding upon and inure to the benefit of Pacific Play Systems, Inc. and the Purchaser, and their successors and permitted assigns.
3. **ATTORNEY FEES & EXPENSES:** In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs of suit, including any fees and costs incurred in preparation of such suit.
4. **COST ESCALATION CLAUSE:** Given the recent dramatic increases in the cost of materials and freight, if Pacific Play's cost of materials and/or freight associated with this project increases by over 5% by the time this project gets installed, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Customer completely fulfills his or her obligations under this Contract for the scope identified, including making timely payments per Payment Terms of Contract. Customer's failure to pay amounts due under this Contract in a timely fashion or reducing the scope of work shall constitute forfeiture of all discounts provided under this Contract and shall increase Contract sum by the amounts of discounts provided.
6. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
7. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of California. Jurisdiction shall be the County of San Diego, North County Judicial District.
8. **INDEMNIFICATION:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Pacific Play Systems, Inc. and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the sale and installation of equipment and/or materials sold by Pacific Play Systems, Inc., provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or sub-contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim,



damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

9. **INSURANCE REQUIREMENTS:** Pacific Play Systems, Inc. will not provide any insurance coverage in excess of Pacific Play Systems, Inc.'s standard insurance policies. A copy of the Pacific Play Systems, Inc.'s standard insurance policies is available for Purchaser's review prior to acceptance of this Agreement.

10. This Purchase Agreement excludes any labor of any kind or handling of equipment or materials. Purchaser shall be responsible for proper installation of equipment and materials purchased per manufacturer's installation instructions and shall not be entitled to back charge Pacific Play Systems for any installation errors, delays, installation, or labor related issues, etc. no matter what the reason is.

10. **LIABILITY LIMIT:** To the extent permitted by law, Pacific Play Systems' liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any products or services covered by or furnished under this Agreement, shall in no case exceed the price of the products, services or parts thereof which gives rise to this claim. In no event shall Pacific Play Systems, Inc. be liable for special, incidental or consequential damages, or for damages in the nature of penalties.

11. **LEAD TIME:** Unless otherwise noted, due to continuing supply chain issues and materials shortages, lead time for delivery of equipment is approximately 32 weeks (+/-) AFTER receipt of a signed Contract, deposit and color selection from the Customer. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and different products, depending on product, size and Scope of Work.

12. **MAINTENANCE:** Customer shall be responsible for maintenance and upkeep of all acquired equipment and materials associated with this Contract, including but not limited to maintenance of equipment, materials, surfacing, drainage system, etc. Playground equipment and surfacing require daily, weekly and monthly inspections. It is common that some bolts may come loose after the initial installation and some use, particularly in moving parts. It shall be Customer's responsibility to inspect for loose or missing hardware and attend to it as needed.

13. **NOTICES:** All notices required by this Agreement shall be in writing and be delivered via email, United States Certified Mail, addressed to the party to whom such notices are directed. Either party may change its address for notices hereunder by giving notice to the other party in the same manner as provided herein.

14. **OWNERSHIP:** Once equipment and/or materials are delivered to the Purchaser's premises, it is considered delivered and Purchaser shall become responsible for its security. All costs associated with replacement of vandalized and/or stolen equipment, materials shall be Purchaser's responsibility.

15. **PAYMENT TERMS:** All payments are due per Contract 's Payment Terms. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If payments are not received on time and collection becomes necessary, aside from adding interest, all discounts provided shall be reversed and added to the contract sum and Pacific Play Systems, Inc. shall be entitled to collection costs incurred plus attorneys' fees & expenses to the full extent allowed by the



applicable laws. Additionally, Pacific Play Systems, Inc. may suspend all warranties until such time that all past due balances, interest and fees are paid in full.

16. RETURNS: Equipment, materials associated with this Contract are highly customized and shall be considered Non-Returnable. Once the Contract is signed and equipment, materials and services are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Contract, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change involving a reduction in the Scope of Work or the Contract Sum after the award of Contract, Pacific Play Systems, Inc. shall be entitled to charge the Customer a fee 30% of the cost of items deleted for the time and effort put forth into processing those items. Additionally, any discounts associated with the deleted items shall be reversed.

17. SEVERABILITY: Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

18. SHADE STRUCTURES: Shade structures, shade sails, umbrellas, shelters and canopies (hereafter referred to as Shade Structures) included in the Scope of Work (if any) are non-engineered (no calculations or engineering drawings are provided), non-structural (not rated for fire, wind or earthquakes), unless otherwise noted in writing. Non-engineered, non-structural Shade Structures are considered temporary structures and will not be suitable for installation at locations that require obtaining a permit. It shall be Customer's responsibility to determine if a permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Contract so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is instructed to obtain a permit, all associated engineering costs shall be billed at cost plus 20% as well as staff time at the rate of \$120/hour, plus all applicable costs, permit fees, etc.

19. SHORT SHIP CLAIMS: Purchaser has five (5) days from receipt of the equipment and/or materials to file a short ship or damage report in writing to its sales representative. Pacific Play Systems, Inc. will not honor claims made after this time.

20. STORAGE FEES: If the project is delayed for any reason due to factors beyond Pacific Play Systems, Inc. control, Customer shall become responsible for paying storage fees billed at cost plus 20%. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost plus 20%.

21. SUCCESSION & ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. A Party may not assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party. Purchaser shall not assign this Agreement to any third-party implementation agencies such as property management companies, contract compliance agencies, etc. without the prior written consent of Pacific Play Systems, Inc.

22. TERMINATION: This Contract shall not be terminated by either party without material cause. Pacific Play Systems, Inc. may terminate this Contract with Customer for lack of payment and for other material breach, if not cured within 10 days of receipt of a written notice to Customer. If this Contract is terminated by any party for any reason, Customer shall remain fully liable for the cost of equipment and



materials ordered, administrative and other time spent on the project and for services rendered to the full extent allowed by law.

23. **THIRD-PARTY BENEFICIARIES:** This Agreement creates no third-party rights or obligations between Pacific Play Systems, Inc. and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

24. **WARRANTY:** Equipment warranties are provided by the equipment manufacturers and not by Pacific Play Systems, Inc. Material warranties are provided by the supplier of materials and not by Pacific Play Systems, Inc. When available, Pacific Play Systems, Inc. shall provide copies of equipment and material warranties to Purchaser upon request. Customer acknowledges that moving parts (spinners, zip lines, track rides, rope connections, swings, etc.) may require regular maintenance in order to stay operational. Pacific Play Systems shall not be responsible for the maintenance of these items which may involve tightening of bolts, connections, etc.



CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Murray ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1122

Description	Qty	Rate	Total
2022 Prices. Project Name: Murray ES Scope of Work: Provide equipment as outlined per below:			
Playcraft PR#PAC22MES1, Custom 5" OD Steel Play System and freestanding, 2-5 age-group	1	35,865.00	35,865.00T
Playcraft Clubhouse with Roof, 2-5 age-group	1	5,966.00	5,966.00T
Playcraft Musical Flower Indigo, 2-12 age-group	1	1,259.00	1,259.00T
Playcraft Musical Flower Yellow, 2-12 age-group	1	1,368.00	1,368.00T
Playcraft Tuned Drums, 2-12 age-group	1	3,655.00	3,655.00T
Playcraft PC2181-7, 7ft Single Post Swings (8 belt seats)	1	5,745.00	5,745.00T
Playcraft PC2181-7, 7ft Single Post Swings (6 belt seats)	1	4,400.00	4,400.00T
Sub-total			58,258.00
CMAS co-op discount, CMAS Contract ID 4-19-78-0095A		-5,826.00	-5,826.00
Steel & Plastics Tariffs Surcharge: Rapid increases in the cost of commodities has caused the manufacturer to add an emergency surcharge to its products to cover the increased cost of raw materials.	1	7,550.00	7,550.00
Freight & delivery costs, playground equipment	1	6,288.96	6,288.96
Project administration, overhead costs, no charge	1	0.00	0.00
EXCLUSIONS: Labor, unloading of equipment or handling of any kind.			
Required Statement for California Projects: Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a latent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.			

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.

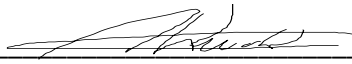
Total

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Murray ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1122

Description	Qty	Rate	Total
<p>This Contract is executed between Pacific Play Systems, Inc., a California corporation and Customer (also referred to as Owner), identified in the Customer section of this Contract. Either Customer or Pacific Play Systems, Inc. may be referred to as Party, together as Parties. The purpose of this Contract is for Pacific Play Systems, Inc. to provide Customer with equipment, materials and/or services as outlined in the Scope of Work section of this Contract in exchange for the sum of money as outlined in this Contract.</p> <p>By signing below, both Parties acknowledge that they are entering into a legally binding Contract, which includes Exhibit B. Customer acknowledges the receipt and review of Exhibit B (Terms and Conditions) which shall be made a part of this Contract and enforceable to the full extent allowed by law.</p> <p>ACCEPTED BY CUSTOMER: Customer's Name: _____ Date accepted: _____ Signature: _____ Signed By: _____</p> <p>ACCEPTED BY PACIFIC PLAY SYSTEMS, INC.: Federal Tax I.D. #: 27-4620108 - DIR No. 1000012253 Date accepted: <u>10/28/2022</u> California Contractors License #957776, Classifications: A, B, C61-D12, C61-D34</p> <p>Signature: <u></u> Signed By: Alexandre Campos CA Sales Tax, Los Angeles County VP, Design Mgt.</p>		9.50%	4,981.04

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.	Total		\$71,252.00
---	--------------	--	--------------------

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 10-01-2022)

1. **ACTS OF GOD:** In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, interruption of electrical power or other utilities, shortages of materials and/or labor, manufacturing issues or delays beyond its control, failures or damage reasonably beyond its control, pandemic related issues, or other causes reasonably beyond its control, such party shall not be liable to the other party for any damages resulting from such failure to perform or otherwise from such causes. Pacific Play Systems, Inc. and Customer shall notify each other as soon as reasonably possible following the occurrence of an event described in this subsection.
2. **ASSIGNMENT:** Purchaser may not assign this Purchase Agreement (hereafter referred to as Agreement), by operation of law or otherwise, without the prior written consent of Pacific Play Systems, Inc. This Agreement shall be binding upon and inure to the benefit of Pacific Play Systems, Inc. and the Purchaser, and their successors and permitted assigns.
3. **ATTORNEY FEES & EXPENSES:** In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs of suit, including any fees and costs incurred in preparation of such suit.
4. **COST ESCALATION CLAUSE:** Given the recent dramatic increases in the cost of materials and freight, if Pacific Play's cost of materials and/or freight associated with this project increases by over 5% by the time this project gets installed, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Customer completely fulfills his or her obligations under this Contract for the scope identified, including making timely payments per Payment Terms of Contract. Customer's failure to pay amounts due under this Contract in a timely fashion or reducing the scope of work shall constitute forfeiture of all discounts provided under this Contract and shall increase Contract sum by the amounts of discounts provided.
6. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
7. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of California. Jurisdiction shall be the County of San Diego, North County Judicial District.
8. **INDEMNIFICATION:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Pacific Play Systems, Inc. and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the sale and installation of equipment and/or materials sold by Pacific Play Systems, Inc., provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or sub-contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim,



damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

9. **INSURANCE REQUIREMENTS:** Pacific Play Systems, Inc. will not provide any insurance coverage in excess of Pacific Play Systems, Inc.'s standard insurance policies. A copy of the Pacific Play Systems, Inc.'s standard insurance policies is available for Purchaser's review prior to acceptance of this Agreement.

10. This Purchase Agreement excludes any labor of any kind or handling of equipment or materials. Purchaser shall be responsible for proper installation of equipment and materials purchased per manufacturer's installation instructions and shall not be entitled to back charge Pacific Play Systems for any installation errors, delays, installation, or labor related issues, etc. no matter what the reason is.

10. **LIABILITY LIMIT:** To the extent permitted by law, Pacific Play Systems' liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any products or services covered by or furnished under this Agreement, shall in no case exceed the price of the products, services or parts thereof which gives rise to this claim. In no event shall Pacific Play Systems, Inc. be liable for special, incidental or consequential damages, or for damages in the nature of penalties.

11. **LEAD TIME:** Unless otherwise noted, due to continuing supply chain issues and materials shortages, lead time for delivery of equipment is approximately 32 weeks (+/-) AFTER receipt of a signed Contract, deposit and color selection from the Customer. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and different products, depending on product, size and Scope of Work.

12. **MAINTENANCE:** Customer shall be responsible for maintenance and upkeep of all acquired equipment and materials associated with this Contract, including but not limited to maintenance of equipment, materials, surfacing, drainage system, etc. Playground equipment and surfacing require daily, weekly and monthly inspections. It is common that some bolts may come loose after the initial installation and some use, particularly in moving parts. It shall be Customer's responsibility to inspect for loose or missing hardware and attend to it as needed.

13. **NOTICES:** All notices required by this Agreement shall be in writing and be delivered via email, United States Certified Mail, addressed to the party to whom such notices are directed. Either party may change its address for notices hereunder by giving notice to the other party in the same manner as provided herein.

14. **OWNERSHIP:** Once equipment and/or materials are delivered to the Purchaser's premises, it is considered delivered and Purchaser shall become responsible for its security. All costs associated with replacement of vandalized and/or stolen equipment, materials shall be Purchaser's responsibility.

15. **PAYMENT TERMS:** All payments are due per Contract 's Payment Terms. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If payments are not received on time and collection becomes necessary, aside from adding interest, all discounts provided shall be reversed and added to the contract sum and Pacific Play Systems, Inc. shall be entitled to collection costs incurred plus attorneys' fees & expenses to the full extent allowed by the



applicable laws. Additionally, Pacific Play Systems, Inc. may suspend all warranties until such time that all past due balances, interest and fees are paid in full.

16. RETURNS: Equipment, materials associated with this Contract are highly customized and shall be considered Non-Returnable. Once the Contract is signed and equipment, materials and services are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Contract, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change involving a reduction in the Scope of Work or the Contract Sum after the award of Contract, Pacific Play Systems, Inc. shall be entitled to charge the Customer a fee 30% of the cost of items deleted for the time and effort put forth into processing those items. Additionally, any discounts associated with the deleted items shall be reversed.

17. SEVERABILITY: Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

18. SHADE STRUCTURES: Shade structures, shade sails, umbrellas, shelters and canopies (hereafter referred to as Shade Structures) included in the Scope of Work (if any) are non-engineered (no calculations or engineering drawings are provided), non-structural (not rated for fire, wind or earthquakes), unless otherwise noted in writing. Non-engineered, non-structural Shade Structures are considered temporary structures and will not be suitable for installation at locations that require obtaining a permit. It shall be Customer's responsibility to determine if a permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Contract so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is instructed to obtain a permit, all associated engineering costs shall be billed at cost plus 20% as well as staff time at the rate of \$120/hour, plus all applicable costs, permit fees, etc.

19. SHORT SHIP CLAIMS: Purchaser has five (5) days from receipt of the equipment and/or materials to file a short ship or damage report in writing to its sales representative. Pacific Play Systems, Inc. will not honor claims made after this time.

20. STORAGE FEES: If the project is delayed for any reason due to factors beyond Pacific Play Systems, Inc. control, Customer shall become responsible for paying storage fees billed at cost plus 20%. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost plus 20%.

21. SUCCESSION & ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. A Party may not assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party. Purchaser shall not assign this Agreement to any third-party implementation agencies such as property management companies, contract compliance agencies, etc. without the prior written consent of Pacific Play Systems, Inc.

22. TERMINATION: This Contract shall not be terminated by either party without material cause. Pacific Play Systems, Inc. may terminate this Contract with Customer for lack of payment and for other material breach, if not cured within 10 days of receipt of a written notice to Customer. If this Contract is terminated by any party for any reason, Customer shall remain fully liable for the cost of equipment and



materials ordered, administrative and other time spent on the project and for services rendered to the full extent allowed by law.

23. **THIRD-PARTY BENEFICIARIES:** This Agreement creates no third-party rights or obligations between Pacific Play Systems, Inc. and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

24. **WARRANTY:** Equipment warranties are provided by the equipment manufacturers and not by Pacific Play Systems, Inc. Material warranties are provided by the supplier of materials and not by Pacific Play Systems, Inc. When available, Pacific Play Systems, Inc. shall provide copies of equipment and material warranties to Purchaser upon request. Customer acknowledges that moving parts (spinners, zip lines, track rides, rope connections, swings, etc.) may require regular maintenance in order to stay operational. Pacific Play Systems shall not be responsible for the maintenance of these items which may involve tightening of bolts, connections, etc.



CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Paramount ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc.	Date	9/6/2022
	Contractor Lic. # 957776	Terms	Net 30
	Class A/B/C61/D34/D12	Valid for	30 Days
	Phone (760) 599-7355	Est. No.	2022-1124

Description	Qty	Rate	Total
2022 Prices Project Name: Paramount ES Scope of Work: Provide equipment as outlined per below: Playcraft PR#PAC22PES1, Custom 5" OD Steel Play System, 5-12 age-group Playcraft Ultrazip, 5-12 age-group Playcraft PC2181-8, 8ft Single Post Swing (2belt seats) Playcraft PC2015, Disc Swing, 2-12 age-group Sub-total			
CMAS co-op discount, CMAS Contract ID 4-19-78-0095A		-7,160.00	-7,160.00
Steel & Plastics Tariffs Surcharge: Rapid increases in the cost of commodities has caused the manufacturer to add an emergency surcharge to its products to cover the increased cost of raw materials.	1	9,265.00	9,265.00T
Freight & delivery costs, playground equipment	1	6,935.17	6,935.17
Project administration, overhead costs, no charge	1	0.00	0.00
EXCLUSIONS: Labor, unloading of equipment or handling of any kind. Required Statement for California Projects: Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a latent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826. This Contract is executed between Pacific Play Systems, Inc., a California corporation and Customer (also referred to as Owner), identified in the Customer section of this Contract. Either Customer or Pacific Play Systems, Inc. may be referred to as Party, together as Parties. The purpose of this Contract is for Pacific Play Systems, Inc. to provide Customer with equipment, materials and/or services as outlined in the Scope of Work section of this Contract in exchange for the sum of money as outlined in this Contract.			

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.

Total

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Paramount ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1124

Description	Qty	Rate	Total
<p>By signing below, both Parties acknowledge that they are entering into a legally binding Contract, which includes Exhibit B. Customer acknowledges the receipt and review of Exhibit B (Terms and Conditions) which shall be made a part of this Contract and enforceable to the full extent allowed by law.</p> <p>ACCEPTED BY CUSTOMER: Customer's Name: _____ Date accepted: _____ Signature: _____ Signed By: _____</p> <p>ACCEPTED BY PACIFIC PLAY SYSTEMS, INC.: Federal Tax I.D. #: 27-4620108 - DIR No. 1000012253 Date accepted: <u>10/28/2022</u> California Contractors License #957776, Classifications: A, B, C61-D12, C61-D34</p> <p>Signature: Signed By: Alexandre Campos CA Sales Tax, Los Angeles County VP, Design Mgt.</p>		9.50%	6,996.58

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.	Total	\$87,580.00
---	--------------	--------------------

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 10-01-2022)

1. **ACTS OF GOD:** In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, interruption of electrical power or other utilities, shortages of materials and/or labor, manufacturing issues or delays beyond its control, failures or damage reasonably beyond its control, pandemic related issues, or other causes reasonably beyond its control, such party shall not be liable to the other party for any damages resulting from such failure to perform or otherwise from such causes. Pacific Play Systems, Inc. and Customer shall notify each other as soon as reasonably possible following the occurrence of an event described in this subsection.
2. **ASSIGNMENT:** Purchaser may not assign this Purchase Agreement (hereafter referred to as Agreement), by operation of law or otherwise, without the prior written consent of Pacific Play Systems, Inc. This Agreement shall be binding upon and inure to the benefit of Pacific Play Systems, Inc. and the Purchaser, and their successors and permitted assigns.
3. **ATTORNEY FEES & EXPENSES:** In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs of suit, including any fees and costs incurred in preparation of such suit.
4. **COST ESCALATION CLAUSE:** Given the recent dramatic increases in the cost of materials and freight, if Pacific Play's cost of materials and/or freight associated with this project increases by over 5% by the time this project gets installed, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Customer completely fulfills his or her obligations under this Contract for the scope identified, including making timely payments per Payment Terms of Contract. Customer's failure to pay amounts due under this Contract in a timely fashion or reducing the scope of work shall constitute forfeiture of all discounts provided under this Contract and shall increase Contract sum by the amounts of discounts provided.
6. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
7. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of California. Jurisdiction shall be the County of San Diego, North County Judicial District.
8. **INDEMNIFICATION:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Pacific Play Systems, Inc. and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the sale and installation of equipment and/or materials sold by Pacific Play Systems, Inc., provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or sub-contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim,



damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

9. **INSURANCE REQUIREMENTS:** Pacific Play Systems, Inc. will not provide any insurance coverage in excess of Pacific Play Systems, Inc.'s standard insurance policies. A copy of the Pacific Play Systems, Inc.'s standard insurance policies is available for Purchaser's review prior to acceptance of this Agreement.

10. This Purchase Agreement excludes any labor of any kind or handling of equipment or materials. Purchaser shall be responsible for proper installation of equipment and materials purchased per manufacturer's installation instructions and shall not be entitled to back charge Pacific Play Systems for any installation errors, delays, installation, or labor related issues, etc. no matter what the reason is.

10. **LIABILITY LIMIT:** To the extent permitted by law, Pacific Play Systems' liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any products or services covered by or furnished under this Agreement, shall in no case exceed the price of the products, services or parts thereof which gives rise to this claim. In no event shall Pacific Play Systems, Inc. be liable for special, incidental or consequential damages, or for damages in the nature of penalties.

11. **LEAD TIME:** Unless otherwise noted, due to continuing supply chain issues and materials shortages, lead time for delivery of equipment is approximately 32 weeks (+/-) AFTER receipt of a signed Contract, deposit and color selection from the Customer. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and different products, depending on product, size and Scope of Work.

12. **MAINTENANCE:** Customer shall be responsible for maintenance and upkeep of all acquired equipment and materials associated with this Contract, including but not limited to maintenance of equipment, materials, surfacing, drainage system, etc. Playground equipment and surfacing require daily, weekly and monthly inspections. It is common that some bolts may come loose after the initial installation and some use, particularly in moving parts. It shall be Customer's responsibility to inspect for loose or missing hardware and attend to it as needed.

13. **NOTICES:** All notices required by this Agreement shall be in writing and be delivered via email, United States Certified Mail, addressed to the party to whom such notices are directed. Either party may change its address for notices hereunder by giving notice to the other party in the same manner as provided herein.

14. **OWNERSHIP:** Once equipment and/or materials are delivered to the Purchaser's premises, it is considered delivered and Purchaser shall become responsible for its security. All costs associated with replacement of vandalized and/or stolen equipment, materials shall be Purchaser's responsibility.

15. **PAYMENT TERMS:** All payments are due per Contract 's Payment Terms. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If payments are not received on time and collection becomes necessary, aside from adding interest, all discounts provided shall be reversed and added to the contract sum and Pacific Play Systems, Inc. shall be entitled to collection costs incurred plus attorneys' fees & expenses to the full extent allowed by the



applicable laws. Additionally, Pacific Play Systems, Inc. may suspend all warranties until such time that all past due balances, interest and fees are paid in full.

16. RETURNS: Equipment, materials associated with this Contract are highly customized and shall be considered Non-Returnable. Once the Contract is signed and equipment, materials and services are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Contract, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change involving a reduction in the Scope of Work or the Contract Sum after the award of Contract, Pacific Play Systems, Inc. shall be entitled to charge the Customer a fee 30% of the cost of items deleted for the time and effort put forth into processing those items. Additionally, any discounts associated with the deleted items shall be reversed.

17. SEVERABILITY: Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

18. SHADE STRUCTURES: Shade structures, shade sails, umbrellas, shelters and canopies (hereafter referred to as Shade Structures) included in the Scope of Work (if any) are non-engineered (no calculations or engineering drawings are provided), non-structural (not rated for fire, wind or earthquakes), unless otherwise noted in writing. Non-engineered, non-structural Shade Structures are considered temporary structures and will not be suitable for installation at locations that require obtaining a permit. It shall be Customer's responsibility to determine if a permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Contract so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is instructed to obtain a permit, all associated engineering costs shall be billed at cost plus 20% as well as staff time at the rate of \$120/hour, plus all applicable costs, permit fees, etc.

19. SHORT SHIP CLAIMS: Purchaser has five (5) days from receipt of the equipment and/or materials to file a short ship or damage report in writing to its sales representative. Pacific Play Systems, Inc. will not honor claims made after this time.

20. STORAGE FEES: If the project is delayed for any reason due to factors beyond Pacific Play Systems, Inc. control, Customer shall become responsible for paying storage fees billed at cost plus 20%. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost plus 20%.

21. SUCCESSION & ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. A Party may not assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party. Purchaser shall not assign this Agreement to any third-party implementation agencies such as property management companies, contract compliance agencies, etc. without the prior written consent of Pacific Play Systems, Inc.

22. TERMINATION: This Contract shall not be terminated by either party without material cause. Pacific Play Systems, Inc. may terminate this Contract with Customer for lack of payment and for other material breach, if not cured within 10 days of receipt of a written notice to Customer. If this Contract is terminated by any party for any reason, Customer shall remain fully liable for the cost of equipment and



materials ordered, administrative and other time spent on the project and for services rendered to the full extent allowed by law.

23. **THIRD-PARTY BENEFICIARIES:** This Agreement creates no third-party rights or obligations between Pacific Play Systems, Inc. and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

24. **WARRANTY:** Equipment warranties are provided by the equipment manufacturers and not by Pacific Play Systems, Inc. Material warranties are provided by the supplier of materials and not by Pacific Play Systems, Inc. When available, Pacific Play Systems, Inc. shall provide copies of equipment and material warranties to Purchaser upon request. Customer acknowledges that moving parts (spinners, zip lines, track rides, rope connections, swings, etc.) may require regular maintenance in order to stay operational. Pacific Play Systems shall not be responsible for the maintenance of these items which may involve tightening of bolts, connections, etc.



CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Valleydale ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc.	Date	9/6/2022
	Contractor Lic. # 957776	Terms	Net 30
	Class A/B/C61/D34/D12	Valid for	30 Days
	Phone (760) 599-7355	Est. No.	2022-1125

Description	Qty	Rate	Total
2022 Prices Project Name: Valleydale ES Scope of Work: Provide equipment as outlined per below: Playcraft PR#PAC22VDES, Viking Themed Custom 5" OD Steel Play System, 5-12 age-group Playcraft PC 2292 Power Tower Climber, 5-12 age-group Playcraft PC 2490 Surf Rider, 5-12 age-group Sub-total			
	1	46,127.00	46,127.00T
	1	2,935.00	2,935.00T
	1	1,424.00	1,424.00T
			50,486.00
CMAS co-op discount, CMAS Contract ID 4-19-78-0095A		-5,050.00	-5,050.00
Steel & Plastics Tariffs Surcharge: Rapid increases in the cost of commodities has caused the manufacturer to add an emergency surcharge to its products to cover the increased cost of raw materials.	1	7,190.00	7,190.00
Freight & delivery costs, playground equipment	1	3,957.58	3,957.58
Project administration, overhead costs, no charge	1	0.00	0.00
EXCLUSIONS: Labor, unloading of equipment or handling of any kind. Required Statement for California Projects: Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a latent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826. This Contract is executed between Pacific Play Systems, Inc., a California corporation and Customer (also referred to as Owner), identified in the Customer section of this Contract. Either Customer or Pacific Play Systems, Inc. may be referred to as Party, together as Parties. The purpose of this Contract is for Pacific Play Systems, Inc. to provide Customer with equipment, materials and/or services as outlined in the Scope of Work section of this Contract in exchange for the sum of money as outlined in this Contract.			

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.

Total

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Valleydale ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1125

Description	Qty	Rate	Total
<p>By signing below, both Parties acknowledge that they are entering into a legally binding Contract, which includes Exhibit B. Customer acknowledges the receipt and review of Exhibit B (Terms and Conditions) which shall be made a part of this Contract and enforceable to the full extent allowed by law.</p> <p>ACCEPTED BY CUSTOMER: Customer's Name: _____ Date accepted: _____ Signature: _____ Signed By: _____</p> <p>ACCEPTED BY PACIFIC PLAY SYSTEMS, INC.: Federal Tax I.D. #: 27-4620108 - DIR No. 1000012253 Date accepted: <u>10/28/2022</u> California Contractors License #957776, Classifications: A, B, C61-D12, C61-D34</p> <p>Signature: <u></u> Signed By: Alexandre Campos CA Sales Tax, Los Angeles County VP, Design Mgt.</p>		9.50%	4,316.42

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.	Total	\$60,900.00
---	--------------	--------------------

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 10-01-2022)

1. **ACTS OF GOD:** In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, interruption of electrical power or other utilities, shortages of materials and/or labor, manufacturing issues or delays beyond its control, failures or damage reasonably beyond its control, pandemic related issues, or other causes reasonably beyond its control, such party shall not be liable to the other party for any damages resulting from such failure to perform or otherwise from such causes. Pacific Play Systems, Inc. and Customer shall notify each other as soon as reasonably possible following the occurrence of an event described in this subsection.
2. **ASSIGNMENT:** Purchaser may not assign this Purchase Agreement (hereafter referred to as Agreement), by operation of law or otherwise, without the prior written consent of Pacific Play Systems, Inc. This Agreement shall be binding upon and inure to the benefit of Pacific Play Systems, Inc. and the Purchaser, and their successors and permitted assigns.
3. **ATTORNEY FEES & EXPENSES:** In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs of suit, including any fees and costs incurred in preparation of such suit.
4. **COST ESCALATION CLAUSE:** Given the recent dramatic increases in the cost of materials and freight, if Pacific Play's cost of materials and/or freight associated with this project increases by over 5% by the time this project gets installed, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Customer completely fulfills his or her obligations under this Contract for the scope identified, including making timely payments per Payment Terms of Contract. Customer's failure to pay amounts due under this Contract in a timely fashion or reducing the scope of work shall constitute forfeiture of all discounts provided under this Contract and shall increase Contract sum by the amounts of discounts provided.
6. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
7. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of California. Jurisdiction shall be the County of San Diego, North County Judicial District.
8. **INDEMNIFICATION:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Pacific Play Systems, Inc. and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the sale and installation of equipment and/or materials sold by Pacific Play Systems, Inc., provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or sub-contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim,



damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

9. **INSURANCE REQUIREMENTS:** Pacific Play Systems, Inc. will not provide any insurance coverage in excess of Pacific Play Systems, Inc.'s standard insurance policies. A copy of the Pacific Play Systems, Inc.'s standard insurance policies is available for Purchaser's review prior to acceptance of this Agreement.

10. This Purchase Agreement excludes any labor of any kind or handling of equipment or materials. Purchaser shall be responsible for proper installation of equipment and materials purchased per manufacturer's installation instructions and shall not be entitled to back charge Pacific Play Systems for any installation errors, delays, installation, or labor related issues, etc. no matter what the reason is.

10. **LIABILITY LIMIT:** To the extent permitted by law, Pacific Play Systems' liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any products or services covered by or furnished under this Agreement, shall in no case exceed the price of the products, services or parts thereof which gives rise to this claim. In no event shall Pacific Play Systems, Inc. be liable for special, incidental or consequential damages, or for damages in the nature of penalties.

11. **LEAD TIME:** Unless otherwise noted, due to continuing supply chain issues and materials shortages, lead time for delivery of equipment is approximately 32 weeks (+/-) AFTER receipt of a signed Contract, deposit and color selection from the Customer. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and different products, depending on product, size and Scope of Work.

12. **MAINTENANCE:** Customer shall be responsible for maintenance and upkeep of all acquired equipment and materials associated with this Contract, including but not limited to maintenance of equipment, materials, surfacing, drainage system, etc. Playground equipment and surfacing require daily, weekly and monthly inspections. It is common that some bolts may come loose after the initial installation and some use, particularly in moving parts. It shall be Customer's responsibility to inspect for loose or missing hardware and attend to it as needed.

13. **NOTICES:** All notices required by this Agreement shall be in writing and be delivered via email, United States Certified Mail, addressed to the party to whom such notices are directed. Either party may change its address for notices hereunder by giving notice to the other party in the same manner as provided herein.

14. **OWNERSHIP:** Once equipment and/or materials are delivered to the Purchaser's premises, it is considered delivered and Purchaser shall become responsible for its security. All costs associated with replacement of vandalized and/or stolen equipment, materials shall be Purchaser's responsibility.

15. **PAYMENT TERMS:** All payments are due per Contract 's Payment Terms. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If payments are not received on time and collection becomes necessary, aside from adding interest, all discounts provided shall be reversed and added to the contract sum and Pacific Play Systems, Inc. shall be entitled to collection costs incurred plus attorneys' fees & expenses to the full extent allowed by the



applicable laws. Additionally, Pacific Play Systems, Inc. may suspend all warranties until such time that all past due balances, interest and fees are paid in full.

16. RETURNS: Equipment, materials associated with this Contract are highly customized and shall be considered Non-Returnable. Once the Contract is signed and equipment, materials and services are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Contract, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change involving a reduction in the Scope of Work or the Contract Sum after the award of Contract, Pacific Play Systems, Inc. shall be entitled to charge the Customer a fee 30% of the cost of items deleted for the time and effort put forth into processing those items. Additionally, any discounts associated with the deleted items shall be reversed.

17. SEVERABILITY: Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

18. SHADE STRUCTURES: Shade structures, shade sails, umbrellas, shelters and canopies (hereafter referred to as Shade Structures) included in the Scope of Work (if any) are non-engineered (no calculations or engineering drawings are provided), non-structural (not rated for fire, wind or earthquakes), unless otherwise noted in writing. Non-engineered, non-structural Shade Structures are considered temporary structures and will not be suitable for installation at locations that require obtaining a permit. It shall be Customer's responsibility to determine if a permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Contract so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is instructed to obtain a permit, all associated engineering costs shall be billed at cost plus 20% as well as staff time at the rate of \$120/hour, plus all applicable costs, permit fees, etc.

19. SHORT SHIP CLAIMS: Purchaser has five (5) days from receipt of the equipment and/or materials to file a short ship or damage report in writing to its sales representative. Pacific Play Systems, Inc. will not honor claims made after this time.

20. STORAGE FEES: If the project is delayed for any reason due to factors beyond Pacific Play Systems, Inc. control, Customer shall become responsible for paying storage fees billed at cost plus 20%. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost plus 20%.

21. SUCCESSION & ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. A Party may not assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party. Purchaser shall not assign this Agreement to any third-party implementation agencies such as property management companies, contract compliance agencies, etc. without the prior written consent of Pacific Play Systems, Inc.

22. TERMINATION: This Contract shall not be terminated by either party without material cause. Pacific Play Systems, Inc. may terminate this Contract with Customer for lack of payment and for other material breach, if not cured within 10 days of receipt of a written notice to Customer. If this Contract is terminated by any party for any reason, Customer shall remain fully liable for the cost of equipment and



materials ordered, administrative and other time spent on the project and for services rendered to the full extent allowed by law.

23. **THIRD-PARTY BENEFICIARIES:** This Agreement creates no third-party rights or obligations between Pacific Play Systems, Inc. and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

24. **WARRANTY:** Equipment warranties are provided by the equipment manufacturers and not by Pacific Play Systems, Inc. Material warranties are provided by the supplier of materials and not by Pacific Play Systems, Inc. When available, Pacific Play Systems, Inc. shall provide copies of equipment and material warranties to Purchaser upon request. Customer acknowledges that moving parts (spinners, zip lines, track rides, rope connections, swings, etc.) may require regular maintenance in order to stay operational. Pacific Play Systems shall not be responsible for the maintenance of these items which may involve tightening of bolts, connections, etc.



CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Victor Hodge ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1126

Description	Qty	Rate	Total
Cost is based on 2022 prices Project Name: Victor Hodge ES Scope of Work: Provide equipment as outlined per below: Playcraft NE 909 Sky Dome, 5-12 age-group 1 18,976.00 18,976.00T Playcraft Track Ride Traverse, 5-12 age-group 1 12,052.00 12,052.00T Sub-total 31,028.00 CMAS co-op discount, CMAS Contract ID 4-19-78-0095A -3,103.00 -3,103.00 Steel & Plastics Tariffs Surcharge: Rapid increases in the cost of commodities has caused the manufacturer to add an emergency surcharge to its products to cover the increased cost of raw materials. 1 4,010.00 4,010.00 Freight & delivery costs, playground equipment 1 4,637.12 4,637.12 Project administration, overhead costs, no charge 1 0.00 0.00			
EXCLUSIONS: Labor, unloading of equipment or handling of any kind.			
Required Statement for California Projects: Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a latent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.			
This Contract is executed between Pacific Play Systems, Inc., a California corporation and Customer (also referred to as Owner), identified in the Customer section of this Contract. Either Customer or Pacific Play Systems, Inc. may be referred to as Party, together as Parties. The purpose of this Contract is for Pacific Play Systems, Inc. to provide Customer with equipment, materials and/or services as outlined in the Scope of Work section of this Contract in exchange for the sum of money as outlined in this Contract.			

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.

Total

CONTRACT



www.pacificplayinc.com

Customer	Contractor	Project	Victor Hodge ES
Azusa USD 546 S Citrus Ave, Azusa, CA 91702 Brian Jefferey Allen	Pacific Play Systems, Inc. Contractor Lic. # 957776 Class A/B/C61/D34/D12 Phone (760) 599-7355	Date	9/6/2022
		Terms	Net 30
		Valid for	30 Days
		Est. No.	2022-1126

Description	Qty	Rate	Total
<p>By signing below, both Parties acknowledge that they are entering into a legally binding Contract, which includes Exhibit B. Customer acknowledges the receipt and review of Exhibit B (Terms and Conditions) which shall be made a part of this Contract and enforceable to the full extent allowed by law.</p> <p>ACCEPTED BY CUSTOMER: Customer's Name: _____ Date accepted: _____ Signature: _____ Signed By: _____</p> <p>ACCEPTED BY PACIFIC PLAY SYSTEMS, INC.: Federal Tax I.D. #: 27-4620108 - DIR No. 1000012253 Date accepted: <u>10/28/2022</u> California Contractors License #957776, Classifications: A, B, C61-D12, C61-D34</p> <p>Signature: Signed By: Alexandre Campos CA Sales Tax, Los Angeles County VP, Design Mgt.</p>		9.50%	2,652.88

Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.	Total		\$39,225.00
---	--------------	--	--------------------

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 10-01-2022)

1. **ACTS OF GOD:** In the event either party is unable to perform its obligations under the terms of this Agreement because of acts of God, interruption of electrical power or other utilities, shortages of materials and/or labor, manufacturing issues or delays beyond its control, failures or damage reasonably beyond its control, pandemic related issues, or other causes reasonably beyond its control, such party shall not be liable to the other party for any damages resulting from such failure to perform or otherwise from such causes. Pacific Play Systems, Inc. and Customer shall notify each other as soon as reasonably possible following the occurrence of an event described in this subsection.
2. **ASSIGNMENT:** Purchaser may not assign this Purchase Agreement (hereafter referred to as Agreement), by operation of law or otherwise, without the prior written consent of Pacific Play Systems, Inc. This Agreement shall be binding upon and inure to the benefit of Pacific Play Systems, Inc. and the Purchaser, and their successors and permitted assigns.
3. **ATTORNEY FEES & EXPENSES:** In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs of suit, including any fees and costs incurred in preparation of such suit.
4. **COST ESCALATION CLAUSE:** Given the recent dramatic increases in the cost of materials and freight, if Pacific Play's cost of materials and/or freight associated with this project increases by over 5% by the time this project gets installed, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Customer completely fulfills his or her obligations under this Contract for the scope identified, including making timely payments per Payment Terms of Contract. Customer's failure to pay amounts due under this Contract in a timely fashion or reducing the scope of work shall constitute forfeiture of all discounts provided under this Contract and shall increase Contract sum by the amounts of discounts provided.
6. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
7. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of California. Jurisdiction shall be the County of San Diego, North County Judicial District.
8. **INDEMNIFICATION:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Pacific Play Systems, Inc. and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the sale and installation of equipment and/or materials sold by Pacific Play Systems, Inc., provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or sub-contractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim,



damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

9. **INSURANCE REQUIREMENTS:** Pacific Play Systems, Inc. will not provide any insurance coverage in excess of Pacific Play Systems, Inc.'s standard insurance policies. A copy of the Pacific Play Systems, Inc.'s standard insurance policies is available for Purchaser's review prior to acceptance of this Agreement.

10. This Purchase Agreement excludes any labor of any kind or handling of equipment or materials. Purchaser shall be responsible for proper installation of equipment and materials purchased per manufacturer's installation instructions and shall not be entitled to back charge Pacific Play Systems for any installation errors, delays, installation, or labor related issues, etc. no matter what the reason is.

10. **LIABILITY LIMIT:** To the extent permitted by law, Pacific Play Systems' liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any products or services covered by or furnished under this Agreement, shall in no case exceed the price of the products, services or parts thereof which gives rise to this claim. In no event shall Pacific Play Systems, Inc. be liable for special, incidental or consequential damages, or for damages in the nature of penalties.

11. **LEAD TIME:** Unless otherwise noted, due to continuing supply chain issues and materials shortages, lead time for delivery of equipment is approximately 32 weeks (+/-) AFTER receipt of a signed Contract, deposit and color selection from the Customer. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and different products, depending on product, size and Scope of Work.

12. **MAINTENANCE:** Customer shall be responsible for maintenance and upkeep of all acquired equipment and materials associated with this Contract, including but not limited to maintenance of equipment, materials, surfacing, drainage system, etc. Playground equipment and surfacing require daily, weekly and monthly inspections. It is common that some bolts may come loose after the initial installation and some use, particularly in moving parts. It shall be Customer's responsibility to inspect for loose or missing hardware and attend to it as needed.

13. **NOTICES:** All notices required by this Agreement shall be in writing and be delivered via email, United States Certified Mail, addressed to the party to whom such notices are directed. Either party may change its address for notices hereunder by giving notice to the other party in the same manner as provided herein.

14. **OWNERSHIP:** Once equipment and/or materials are delivered to the Purchaser's premises, it is considered delivered and Purchaser shall become responsible for its security. All costs associated with replacement of vandalized and/or stolen equipment, materials shall be Purchaser's responsibility.

15. **PAYMENT TERMS:** All payments are due per Contract 's Payment Terms. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If payments are not received on time and collection becomes necessary, aside from adding interest, all discounts provided shall be reversed and added to the contract sum and Pacific Play Systems, Inc. shall be entitled to collection costs incurred plus attorneys' fees & expenses to the full extent allowed by the



applicable laws. Additionally, Pacific Play Systems, Inc. may suspend all warranties until such time that all past due balances, interest and fees are paid in full.

16. RETURNS: Equipment, materials associated with this Contract are highly customized and shall be considered Non-Returnable. Once the Contract is signed and equipment, materials and services are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Contract, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change involving a reduction in the Scope of Work or the Contract Sum after the award of Contract, Pacific Play Systems, Inc. shall be entitled to charge the Customer a fee 30% of the cost of items deleted for the time and effort put forth into processing those items. Additionally, any discounts associated with the deleted items shall be reversed.

17. SEVERABILITY: Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

18. SHADE STRUCTURES: Shade structures, shade sails, umbrellas, shelters and canopies (hereafter referred to as Shade Structures) included in the Scope of Work (if any) are non-engineered (no calculations or engineering drawings are provided), non-structural (not rated for fire, wind or earthquakes), unless otherwise noted in writing. Non-engineered, non-structural Shade Structures are considered temporary structures and will not be suitable for installation at locations that require obtaining a permit. It shall be Customer's responsibility to determine if a permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Contract so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is instructed to obtain a permit, all associated engineering costs shall be billed at cost plus 20% as well as staff time at the rate of \$120/hour, plus all applicable costs, permit fees, etc.

19. SHORT SHIP CLAIMS: Purchaser has five (5) days from receipt of the equipment and/or materials to file a short ship or damage report in writing to its sales representative. Pacific Play Systems, Inc. will not honor claims made after this time.

20. STORAGE FEES: If the project is delayed for any reason due to factors beyond Pacific Play Systems, Inc. control, Customer shall become responsible for paying storage fees billed at cost plus 20%. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost plus 20%.

21. SUCCESSION & ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. A Party may not assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party. Purchaser shall not assign this Agreement to any third-party implementation agencies such as property management companies, contract compliance agencies, etc. without the prior written consent of Pacific Play Systems, Inc.

22. TERMINATION: This Contract shall not be terminated by either party without material cause. Pacific Play Systems, Inc. may terminate this Contract with Customer for lack of payment and for other material breach, if not cured within 10 days of receipt of a written notice to Customer. If this Contract is terminated by any party for any reason, Customer shall remain fully liable for the cost of equipment and



materials ordered, administrative and other time spent on the project and for services rendered to the full extent allowed by law.

23. **THIRD-PARTY BENEFICIARIES:** This Agreement creates no third-party rights or obligations between Pacific Play Systems, Inc. and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

24. **WARRANTY:** Equipment warranties are provided by the equipment manufacturers and not by Pacific Play Systems, Inc. Material warranties are provided by the supplier of materials and not by Pacific Play Systems, Inc. When available, Pacific Play Systems, Inc. shall provide copies of equipment and material warranties to Purchaser upon request. Customer acknowledges that moving parts (spinners, zip lines, track rides, rope connections, swings, etc.) may require regular maintenance in order to stay operational. Pacific Play Systems shall not be responsible for the maintenance of these items which may involve tightening of bolts, connections, etc.

