

PURCHASE ORDER



www.pacificplayinc.com

Customer		Project	Mountain Gate 2-5		
City of Corona 400 S. Vicentia Ave, Suite 320 Corona, CA 92882		Estimate #	2022-827		
		Date	6/20/2022		
		Terms	Net 30		
		Valid for	30 Days		
Description			Qty	Rate	Total
Scope of Work: Supply equipment and/or materials as outlined below. No labor of any kind or any other products and/or services are included in this proposal, unless it is clearly noted per below.					
Playcraft SN#R522MGP, Custom Round 5" Steel Play System, 2-5 age-group			1	53,750.00	53,750.00T
Playcraft PC2120-7 7ft Arch Swing (2 Belt, 2 Bucket)			1	5,874.00	5,874.00T
ID Sculpture, TC140 Baby Brontosaurus			1	13,090.00	13,090.00T
ID Sculpture, SC068 Dino Bone Climber			1	7,656.00	7,656.00T
ID Sculpture, SC067 Dino Egg			1	3,135.00	3,135.00T
ID Sculpture, TC141 Triceratops 4ft Deck Access			1	15,120.00	15,120.00T
Sub-total					98,625.00
OMNIA Discount				-9,862.50	-9,862.50
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	8,928.00	8,928.00T
Freight & delivery costs			1	8,956.58	8,956.58
Project administrative and OMNIA Fees			1	4,800.00	4,800.00
Terms: Net 30					
Exclusions:					
1. Labor of any kind, installation & handling. 2. Dealing with 3rd party entities such as lenders, management companies, contract compliance companies. 3. Scope of work only includes items that are clearly listed above and excludes anything that is not clearly listed.					
Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.			Total		

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	Date	6/20/2022		
	Terms	Net 30		
	Valid for	30 Days		
Description		Qty	Rate	Total
<p>We are pleased to submit this Purchase Agreement (hereafter referred to as Agreement) for your review and approval. To place an order, please sign and return a copy to us. By signing below, you (the Purchaser) acknowledge that you are entering into a binding contract with Pacific Play Systems, Inc. for the Scope of Work outlined in this Agreement and agree to its terms and conditions. All payments are due per terms outlined in this agreement. Past due balances are subject to an annual interest rate of 18%. If timely payments are not made by Purchaser and collection becomes necessary, Pacific Play Systems, Inc. shall be entitled to collect interest and all reasonable costs incurred to the extent allowed by law.</p> <p>ACCEPTED BY: Purchaser (Company Name): _____ Date Accepted: _____ Signature: _____ Signed By: _____</p> <p>Pacific Play Systems, Inc. _____ Date accepted: _____ Signature: _____ Signed By: _____ Contractors License #957776, Classifications: A, B, C61-D12, C61-D-34 CA Sales Tax, Riverside County</p>			8.75%	8,547.92
Attached Exhibit B (Terms and Conditions) shall be made a part of this Contract.		Total	\$119,995.00	

PURCHASE AGREEMENT TERMS AND CONDITIONS - EXHIBIT B (Rev. 12-15-2021)

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 shipped, Customer shall be responsible for paying the additional cost over the initial 5% increase.
5. **DISCOUNTS:** Discounts (if any) provided are valid only if Purchaser completely fulfills his or her obligations under this Agreement, including making timely payments per Payment Terms outlined in the Purchase Agreement. Purchaser's failure to pay amounts due under this Agreement in a timely fashion shall constitute forfeiture of all discounts provided under this Agreement and shall increase Agreement sum by the amount 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. **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, lead time for delivery of equipment is approximately 20 (+/-) weeks AFTER receipt of the signed Agreement, deposit and color selection from the Purchaser. Lead time does not include time needed for shipping, site work and installation. Lead time may vary for different projects and products, depending on 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 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 United States Certified Mail, Return Receipt Requested, 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 Payment Terms outlined in this Agreement. Past due balances are subject to an annual interest rate of 18%, or the maximum allowed by law, whichever is greatest. If timely payments are not made by Purchaser and collection becomes necessary, Pacific Play Systems, Inc. shall be entitled to collect interest and all reasonable costs incurred (including attorney and collection costs) to the extent allowed by law.

16. **RETURNS:** Equipment and materials associated with this Agreement are highly customized and shall be considered Non-Returnable. Once this Agreement is signed and equipment and materials are ordered, it cannot be cancelled. No Returns or Substitutions are permitted under this Agreement, unless agreed to in writing by Pacific Play Systems, Inc. If Pacific Play Systems, Inc. agrees to a change in the Scope of Work involving deletion or substitution of the item (s) purchased, Pacific Play Systems, Inc.



shall be entitled to charge Purchaser a restocking fee, equal to 30% of the cost of items deleted or modified. Additionally, any discounts (if any), 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 building permit. It shall be Purchaser's responsibility to determine if a building permit is required for these Shade Structures and communicate same with Pacific Play Systems, Inc. in writing, prior to executing this Agreement so that Shade Structures can be designed, fabricated and priced accordingly for the structural upgrades needed for engineered structures so that a building permit can be obtained by others. Unless otherwise noted, if Pacific Play Systems, Inc. is hired to obtain a permit, all associated costs shall be extra, billed at \$120 per hour plus any out of pockets costs, consultant fee, 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 Contractor's control, Customer shall become responsible for paying storage fees billed at Contractor's cost. If a storage container becomes necessary to secure the equipment on site, Customer shall become responsible for covering its cost.

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. **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.

23. **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.

