

**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
KOMPAN INC.**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is entered into as of October 16, 2018, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Kompan, Inc., a Delaware corporation (the "Contractor").

RECITALS

A. The Town and the Contractor entered into a Professional Services Agreement dated December 20, 2017, as amended by Change Order No. 1, dated August 15, 2018 (collectively, "Agreement") for the Contractor to provide the Town with playground equipment, outdoor fitness equipment, surfacing, site accessories and related products (the "Materials and Services").

B. All capitalized terms not otherwise defined in this First Amendment have the same meanings as contained in the Agreement.

C. The Town has determined that additional Materials and Services from the Contractor are necessary (the "Additional Services").

D. The Town and the Contractor desire to enter into this First Amendment to extend the term of the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Contractor hereby agree as follows:

1. Term of the Agreement. Notwithstanding any provision to the contrary, the Agreement shall remain in full force and effect for one year until October 15, 2019 unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Compensation. The Town shall pay Contractor \$150,000.00 for the Additional Services at the rates set forth in the Agreement, resulting in an increase of the aggregate not-to-exceed compensation from \$ 91,053.51 to \$ 241,053.51.

3. Effect of Amendment. In all other respects, the Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. Non-Default. By executing this First Amendment, the Contractor affirmatively asserts that (i) the Town is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

5. Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

6. Conflict of Interest. This First Amendment and the Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

7. Notices and Requests. Communications directed to the Town pursuant to Section 14 of the Agreement shall be sent to the Town at the addresses listed below.

If to the Town: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Grady E. Miller, Town Manager

With copy to: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Town Attorney

8. Public Records. Consultant acknowledges that the Town is a public entity, subject to Arizona’s public records law (A.R.S. § 39-121 et seq.) and that any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request, subpoena, or other judicial process.

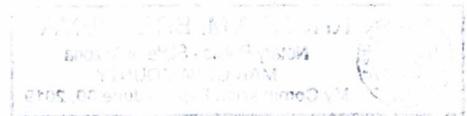
8.01 Trade Secrets Statement. If Consultant believes documents related to its work pursuant to the Agreement contain trade secrets or other proprietary data, Consultant must provide notice to the Town at the time the documents are provided to the Town, and include with the notification a statement that explains and supports Consultant’s claim. Consultant also must specifically identify the trade secrets or other proprietary data that Contractor believes should remain confidential.

8.02 Notice of Records Request. In the event the Town determines it is legally required to disclose any documents subject to a Trade Secrets Statement as defined in section 8.01, the Town, to the extent possible in its sole and absolute discretion, will provide Consultant with prompt written notice by fax, email, or certified mail so that Consultant may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The written notice will include a time period for Consultant to seek court ordered protection or other legal remedies. If Consultant does not obtain such court ordered protection by the expiration of the time period, the Town may release the documents subject to the Trade Secrets Statement without further notice to Consultant.

[Faint signature]

[SIGNATURES ON FOLLOWING PAGES]

[Faint signature]



IN WITNESS WHEREOF, the parties hereto have executed and caused to be signed by their duly authorized representatives, this instrument on the date first written above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona Municipal Corporation

CK
10/17/18


Grady E. Miller, Town Manager

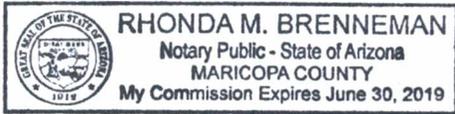
ATTEST:


Elizabeth A. Burke, Town Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On October 18, 2018, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.




Rhonda M. Brenneman
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Contractor”

KOMPAN INC.

By:

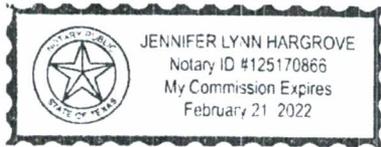
Name: JESPER KRISTENSEN

Its: FINANCE DIRECTOR

(ACKNOWLEDGEMENT)

STATE OF TX)
) ss.
COUNTY OF TRAVIS)

On Oct. 16, 2018, before me personally appeared Jesper Kristensen the Finance Director of Kompan Inc., a Delaware corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of Kompan Inc.



Jennifer Lynn Hargrove
Notary Public

(Affix notary seal here)



LIFETIME
WARRANTY

BUILT TO LAST

A playground is only as good as it is reliable

LIFETIME* WARRANTY

- Galvanized structural parts
 - Steel poles
 - Cross beams
 - Floor frames
 - Top brackets
- Stainless steel hardware
- EcoCore™ and other HDPE panels

10-YEAR WARRANTY

- HPL floors & panels
- Galvanized and aluminum metal parts with painted top layer
- Other galvanized metal parts
- Other stainless steel parts
- Corocord rope
- "S" clamps of stainless steel
- Solid plastic parts
- Hollow plastic parts
- Non-painted metal parts
- Engineered timber and Robinia wood

5-YEAR WARRANTY

- Resin coated plywood plates
- Other painted metal parts
- Springs & ball bearing assemblies
- Other rope & net constructions
- Concrete elements

2-YEAR WARRANTY

- Movable plastic & metal parts
- EPDM rubber membrane material
- Electronic components
- Sun shades & sail solutions

1. WARRANTY COVERAGE

This warranty applies to KOMPAN's products for the time periods described for each product type above and with the limitations described in this warranty. The warranty period applies from the date of purchase by the first customer. This warranty covers only defects in materials. KOMPAN's liability under this warranty is limited to repair or replacement of defective products, without charge, at KOMPAN's discretion. Defective electronic components will be delivered and changed by a KOMPAN ICON Professional installer free of charge.

2. WARRANTY APPLIES ONLY IF PRODUCTS HAVE BEEN PROPERLY INSTALLED AND MAINTAINED

The warranty only applies if KOMPAN's products have been installed according to the instructions provided by KOMPAN, and maintained correctly according to the KOMPAN Maintenance Manual. The warranty for ICON electrical components is dependent on those products being installed by an ICON trained and approved installer.

3. NO COVERAGE FOR ACCIDENTS, WEAR, TEAR, COSMETIC ISSUES, MISUSE OR VANDALISM

This warranty does not cover any damage caused by accident, improper care, negligence, normal wear and tear, surface corrosion on metal parts, discolored surfaces and other cosmetic issues or failures due to misuse or vandalism. Natural changes in wood over time are considered cosmetic issues and are not covered.

4. PRODUCTS INSTALLED NEAR WATER

Products installed in direct contact with chlorinated water or saltwater (Waterparks), or products installed with occasional contact with such water or installed close to the shore that they are subjected to salt spray are not covered by the KOMPAN warranty for any defects caused by corrosion.

Products installed in coastal areas, within 650 ft of the shore, will only be covered by the warranty for half the period of the standard product warranty in relation to defects caused by corrosion. KOMPAN's lifetime warranty if applicable is limited to a 10-year warranty in relation to such products.

5. THIRD PARTY SUPPLIED PRODUCTS & SERVICES

KOMPAN provides non-KOMPAN branded products and installation services performed by certified third party suppliers. This general KOMPAN warranty does not extend to such non-KOMPAN branded products and installation services, which may carry their own warranties. KOMPAN will pass on information about such warranties where possible.