

**SECOND AMENDMENT  
TO  
COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
KOMPAN INC.**

THIS SECOND AMENDMENT TO COOPERATIVE PURCHASING AGREEMENT (this "Second Amendment") is entered into as of July 29, 2019, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Kompan Inc., a Delaware corporation (the "Contractor").

RECITALS

A. After a competitive procurement process, the City of Charlotte, a North Carolina municipal corporation (the "City") entered into Contract No. 2017001135, dated July 1, 2017 (the "City Contract"), for the Contractor to provide playground equipment, outdoor fitness equipment, surfacing, site accessories and related products. The City Contract and all subsequent amendments thereto are incorporated herein by reference, to the extent not inconsistent with this Second Amendment.

B. The Town and the Contractor entered into a Cooperative Purchasing Agreement based upon the City Contract, as amended by that First Amendment dated October 16, 2018 (collectively, the "Agreement"), for the Contractor to provide the Town with playground equipment, outdoor fitness equipment, surfacing, site accessories and related products (the "Services and Materials").

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

D. The Town and the Contractor desire to enter into this Second Amendment to increase the compensation authorized by the Agreement for the Additional Services and Materials and 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. Notwithstanding any provision to the contrary, the Agreement shall remain in full force and effect until October 15, 2020, unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Compensation. The Town shall increase the compensation to Contractor by not more than \$8,000.00 for the Additional Services and Materials at the rates set forth in the City Contract and incorporated herein by reference, resulting in an increase of the aggregate not-to-exceed compensation from \$241,053.51 to \$249,053.51.

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 Second Amendment, the Contractor affirmatively asserts that (i) the Town is not currently in default, nor has it been in default at any time prior to this Second 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 Second 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 Second Amendment and the Agreement may be cancelled by the Town pursuant to Ariz. Rev. Stat. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,  
an Arizona municipal corporation

8.5.19

Grady E. Miller  
Grady E. Miller, Town Manager

ATTEST:

Elizabeth A. Burke  
Elizabeth A. Burke, Town Clerk

APPROVED AS TO FORM:

Aaron D. Arnson  
Aaron D. Arnson, Town Attorney

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

On August 14, 2019, 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.



(Affix notary seal here)

Jamie Salentine  
Notary Public

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

**“Contractor”**

KOMPAN INC.  
a(n) Delaware corporation

By: *Eric Lewis*

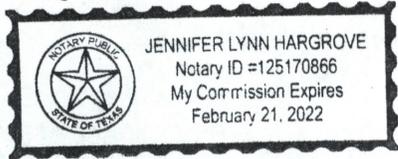
Name: *Eric Lewis*

Title: *Controller*

(ACKNOWLEDGMENT)

STATE OF *Texas* )  
ARIZONA )  
COUNTY OF *Travis* ) ss.  
MARICOPA )

On *July 30th*, 2019, before me personally appeared *Eric Lewis*, the *Controller* of KOMPAN INC., a(n) Delaware corporation whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.



*Jennifer Lynn Hargrove*  
Notary Public

(Affix notary seal here)