

**AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH  
AND KOMPAN CALIFORNIA, INC. FOR PURCHASE OF POLLIWOG PARK  
PLAYGROUND EQUIPMENT**

The following contract ("Contract") is made and entered into as of the last date of full execution ("Effective Date") by and between the City of Manhattan Beach, a California municipal corporation ("City") and Kompan California, Inc., a California corporation ("Vendor"). City and Vendor are referred to herein as the "parties."

WHEREAS, City desires to purchase the equipment ("Equipment") listed in **Exhibit A**, Sales Proposal; and

WHEREAS, City and Vendor now desire to memorialize the terms and conditions of the purchase of the Equipment.

NOW THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK; TERM; TERMINATION: Vendor shall procure, deliver, and furnish all necessary labor, tools, materials, and expertise for delivery of the Equipment consistent with the Sales Proposal attached hereto as **Exhibit A**.

City may terminate this Contract, without cause, at any time by providing Vendor with not less than 10 days' prior written notice. Provided Vendor is not then in breach, Vendor will be paid for work satisfactorily completed and for all deliverables received.

2. TIME OF COMPLETION. Notwithstanding any other provision of this Contract, the completion date for this delivery shall be on or before May 1, 2022 ("Completion Date"). Time is of the essence in this Contract.
3. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: All Exhibits attached hereto are incorporated herein by reference. The documents, City insurance requirements, together with this written contract (and all Exhibits, documents and laws referenced therein), shall constitute the entire agreement between the parties as to the subject matter of this Contract. In the event of any conflict between this Contract and any Exhibit hereto, the provisions of this Contract shall control.
4. FEE SCHEDULE: City agrees to pay to Vendor the sum of \$622,105.01 (the "Maximum Compensation") for the Equipment. This amount is final and shall be paid by City to Vendor in accordance with the fee schedule set forth in **Exhibit A**. The compensation includes (i) all federal, state and local sales, use, excise, privilege, payroll, occupational and other taxes applicable to the Equipment furnished to City hereunder; and (ii) all charges for packing, freight and transportation to destination.

City will not pay for any services not specified in **Exhibit A**, unless the parties authorize such services in writing prior to Vendor's performance of those services or incurrence of additional expenses.

5. **INSURANCE:** Vendor shall not commence work under this Contract until it has obtained insurance with the minimum required limits and coverage as specified in **Exhibit B – City Insurance Requirements**, in a company or companies acceptable to City. Vendor shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained. Vendor shall provide evidence of the required insurance to City's Risk Manager as specified in **Exhibit B**.
6. **REPRESENTATIONS AND WARRANTIES OF VENDOR:**

Vendor shall have good and marketable title to all of the Equipment. All of the Equipment is free and clear of any restrictions on or conditions to transfer or assignment, and City will acquire absolute title to all of the Equipment free and clear of mortgages, liens, pledges, charges, encumbrances, equities, claims, covenants, conditions and restrictions except for such as may be created or granted by City. Vendor is aware that City is purchasing the Equipment for use as playground equipment for the Polliwog Park Project, and that City is relying on the warranties of Vendor that the Equipment is fit for this purpose and the ordinary purposes for which the Equipment is normally used. All equipment and materials provided by Vendor shall be merchantable and fit for the purpose intended.
7. **TIME OF DELIVERY AND VENDOR SCHEDULE:** The time of Vendor's performance is of the essence for this Contract. The Equipment will be delivered in accordance with the schedule set forth in **Exhibit A** or as coordinated with the City Engineer. Vendor must immediately notify City in writing any time delivery is behind schedule or may not be completed on schedule. In the event that the Equipment is part of a larger project or projects that require the coordination of multiple contractors or suppliers, then Vendor will fully cooperate in scheduling the delivery so that City can maximize the efficient completion of such project(s).
8. **PLACE OF DELIVERY:** The Equipment shall be delivered to the following location: Polliwog Park Lower Playground, APN 4165007902.
9. **TITLE AND RISK OF LOSS:** Title to and the risk of loss, damage, and destruction of the Equipment shall remain with the Vendor until after inspection and acceptance of the Equipment by City.
10. **INSPECTION AND ACCEPTANCE:** City shall inspect the Equipment at the time and place of delivery. Such inspection may include reasonable tests and use of the Equipment by City. If, in the determination of City, the Equipment fails to conform to the Contract IN ANY MANNER OR RESPECT, City shall so notify Vendor within ten (10) days of delivery of the Equipment to City. Failing such notice, the Equipment shall be deemed accepted by City as of the date of receipt.

11. REJECTION: In the event of such notice of non-conformity by City pursuant to the section entitled "Inspection and Acceptance" above, City may, at its option, (1) reject the whole of the Equipment, (2) accept the whole of the Equipment, or (3) accept any commercial unit or units of the Equipment and reject the remainder. The exercise of any of the above options shall be "without prejudice" and with full reservation of any rights and remedies of City attendant upon a breach. In the event of such notice and election by City, City agrees to comply with all reasonable instructions of Vendor and, in the event that expenses are incurred by City in following such instructions, Vendor shall indemnify City in full for such expenses.
12. NO REPLACEMENTS OF CURE: This Contract calls for strict compliance. Vendor expressly agrees that the Equipment tendered and the tender itself will conform fully to the terms and conditions of the Contract on the original tender. In the event of rejection by City of the whole of the Equipment or any part thereof pursuant to the section entitled "Rejection" above, City may, but is not required to, accept any substitute performance from Vendor or engage in subsequent efforts to affect a cure of the original tender by Vendor.
13. RESOLUTION OF DISPUTES: In the event that a dispute arises between City and Vendor regarding whether the conditions materially differ, or cause a decrease or increase in Vendor's cost of or time required for performance of any part of the work, Vendor shall not be excused from any scheduled completion date provided for by this Contract, but shall proceed with all work to be performed under this Contract. Vendor shall retain any and all rights that pertain to the resolution of disputes and protests between the parties. In the event of any dispute or controversy with City over any matter whatsoever, Vendor shall not cause any delay or cessation in or of work, but shall proceed with the performance of the work in dispute. This includes disputed time extension requests and prices for changes. The disputed work will be categorized as an "unresolved dispute" and payment, if any, shall be as later determined by mutual agreement or a court of law. Vendor will keep accurate, detailed records of all disputed work, claims and other disputed matters. For purposes of this section, a "claim" means a separate demand by Vendor for a time extension, payment of money or damages arising from work done by or on behalf of Vendor pursuant to this Contract which is not otherwise expressly provided for, or an amount which is disputed by City. Manhattan Beach Municipal Code Chapter 2.56, governing claims and actions against City, shall govern the procedures of the claim process, and the provisions of Manhattan Beach Municipal Code Chapter 2.56 are hereby incorporated herein.
14. INDEMNIFICATION, HOLD HARMLESS, AND DUTY TO DEFEND.
  - a. Indemnities.
    - 1) To the fullest extent permitted by law, Vendor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from

and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively “Liabilities”), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Vendor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Vendor shall bear the legal liability thereof) in the performance of this Contract, including the Indemnitees’ active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the Parties. Vendor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees’ choice, and shall pay all costs and expenses, including all attorneys’ fees and experts’ costs actually incurred in connection with such defense. Vendor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

- 2) Vendor shall pay all required taxes on amounts paid to Vendor under this Contract, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Contract. Vendor shall fully comply with the workers’ compensation law regarding Vendor and Vendor’s employees. Vendor shall indemnify and hold City harmless from any failure of Vendor to comply with applicable workers’ compensation laws. City may offset against the amount of any fees due to Vendor under this Contract any amount due to City from Vendor as a result of Vendor’s failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph a.2).
- 3) Vendor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Vendor in the performance of this Contract. If Vendor fails to obtain such indemnity obligations, Vendor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Vendor’s subcontractor, its officers, agents, servants, employees, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Vendor’s subcontractor shall bear the legal liability thereof) in the performance of this Contract, including the Indemnitees’ active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the

Indemnitees, as determined by court decision or by the agreement of the Parties.

- b. Workers' Compensation Acts not Limiting. Vendor's indemnifications and obligations under this Section, or any other provision of this Contract, shall not be limited by the provisions of any workers' compensation act or similar act. Vendor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.
  - c. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Vendor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Contract. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.
  - d. Survival of Terms. Vendor's indemnifications and obligations under this Section shall survive the expiration or termination of this Contract.
15. NON-DISCRIMINATION: Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, age or any other impermissible basis under law.
16. WARRANTY. The warranty(ies) applicable to the equipment and materials purchased by City pursuant to this Contract shall be as specified in **Exhibit A**.
17. ANTITRUST CLAIMS: Vendor offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code) arising from purchases of goods, services, or materials pursuant to this Contract. This assignment shall be made and become effective at the time City tenders final payment to Vendor without further acknowledgment by the parties.
18. INDEPENDENT CONTRACTOR: Vendor is and shall at all times remain, as to City, a wholly independent contractor. The personnel performing the services under this Contract on behalf of Vendor shall at all times be under Vendor's exclusive direction and control. Neither City nor any of its officers, officials, employees, agents, or volunteers shall have control over the conduct of Vendor or any of Vendor's employees except as set forth in this Contract, and Vendor is free to dispose of all portions of its time and activities which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as Vendor wishes except as expressly provided in this Contract. Vendor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent.

Vendor shall not, at any time or in any manner, represent that it or any of its agents, servants or employees are in any manner agents, servants or employees of City. Vendor

agrees to pay all required taxes on amounts paid to Vendor under this Contract, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Contract. Vendor shall fully comply with the workers' compensation law regarding Vendor and its employees, and Vendor further agrees to indemnify and hold City harmless from any failure of Vendor to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any fees due to Vendor under this Contract any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

19. ASSIGNMENT: Vendor shall not assign or transfer any interest in this Contract or any part thereof, whether by assignment or novation, without City's prior written consent. Any purported assignment without written consent shall be null and void, and Vendor shall hold harmless, defend and indemnify City and its officers, officials, employees, agents and representatives with respect to any claim, demand or action arising from any unauthorized assignment.
20. GOVERNING LAW AND VENUE: Should either party to this Contract bring legal action against the other, the validity, interpretation, and performance of this Contract shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to this Contract shall be in the Los Angeles County Superior Court.
21. ATTORNEYS' FEES: If any legal action or other proceeding, including action for declaratory relief, is brought for the enforcement of this Contract or because of an alleged dispute, breach, default or misrepresentation in connection with this Contract, the prevailing party shall be entitled to recover actual attorneys' fees, experts' fees, and other costs, in addition to any other relief to which the party may be entitled.
22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations in force at the time Vendor provides the services pursuant to this Contract.
23. NOTICES: Except as otherwise required by law, any notice, request, direction, demand, payment, consent, waiver, approval or other communication required or permitted to be given hereunder to City shall not be effective unless it is given in writing and shall be delivered (a) in person or (b) by certified mail, postage prepaid, and addressed to City at the address stated below, or at such other address as City may hereafter notify Vendor in writing as aforementioned:

To CITY:

Anastasia Seims  
Senior Civil Engineer  
City of Manhattan Beach  
1400 Highland Avenue

To VENDOR:

Grant Bauer  
Playground Design and Sales Consultant  
Kompan California, Inc.  
22431 Antonio Parkway, Ste B160-426

Manhattan Beach, California 90266  
Telephone: 310.802.5356  
Email: aseims@manhattanbeach.gov

Rancho Santa Margarita  
Telephone: 818.269.6096  
Email: GraBau@Kompan.com

If sent by mail, any notice, tender, demand, delivery or other communication shall be deemed effective three business days after it has been deposited in the United States mail. For purposes of communicating these time frames, weekends and federal, State, religious, County of Los Angeles or City holidays shall be excluded. No communication via facsimile or electronic mail shall be effective to give any such notice or other communication hereunder.

24. ENTIRE AGREEMENT: This Contract, including any other documents incorporated herein by reference, represents the entire integrated agreement between City and Vendor and supersedes all prior or contemporaneous negotiations, representations, agreements, understandings and statements, written or oral. This Contract may only be modified or amended, or provisions or breach may be waived, by written agreement signed by both parties. The provision of this Contract shall govern over any inconsistent provisions contained in any Exhibit.
25. NON-WAIVER OF TERMS, RIGHTS AND REMEDIES: Waiver by either party of any one or more of the conditions of performance under this Contract shall not be a waiver of any other condition of performance under this Contract. In no event shall the making by City of any payment to Vendor constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Vendor, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.
26. SEVERABILITY: Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be valid under applicable law. If any term or portion of this Contract is determined by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, the remaining provisions of this Contract shall nevertheless continue in full force and effect and shall in no way be affected, impaired or invalidated.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused these present to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

**CITY OF MANHATTAN BEACH,**  
a California municipal corporation

**VENDOR:**

KOMPAN CALIFORNIA, INC.,  
a California corporation

By: \_\_\_\_\_  
Bruce Moe, City Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

**PROOF OF AUTHORITY TO BIND CONTRACTING  
PARTY REQUIRED**

\_\_\_\_\_  
Liza Tamura, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Quinn M. Barrow, City Attorney

APPROVED AS TO FISCAL CONTENT:

By: \_\_\_\_\_  
Name: Steve S. Charelian  
Title: Finance Director

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Name: Erick Lee  
Title: Public Works Director



**Exhibit A**

**SCOPE OF WORK AND FEE SCHEDULE**







## Sales Proposal

City of Manhattan Beach  
3621 Bell Ave.  
Manhattan Beach, CA 90266  
United States

Quote No. SP101908-6  
Customer No. C025243  
Document Date 09/13/2021  
Expiration Date 12/30/2021

Sales Representative Grant Bauer  
E-Mail GraBau@Kompan.com  
Phone No. 818-269-6096 / 800-426-9788  
Sales Support Kelsey Anderson  
E-Mail psc@Kompan.com

Project Name US165961 Polliwog Park

No.	Description	Qty Unit	Net Price
<a href="#"><u>NRO887-0611</u></a>	Single Balance Beam - Brown Pigmented 	1 Pieces	569.23
<a href="#"><u>NRO543-1011</u></a>	Explorer Ship, Medium - Brown Pigmented 	1 Pieces	88,052.54
KNS-CUSTOM	SMALL ROPE PLAY TOWER with C VDL3: COROCORD19-0105-1C1 8500038A1	1 Pieces	302,143.25
<a href="#"><u>NRO1025-1011</u></a>	Mega Deck Play Tower - Brown Pigmented 	1 Pieces	28,911.89
<a href="#"><u>ELE400024-3717F</u></a>	Spinner Bowl - Yellow 	1 Pieces	1,155.46
<a href="#"><u>ELE400065-3717BL</u></a>	Tipi Carousel w/ Top Brace - Dark Blue 	1 Pieces	4,290.48
<a href="#"><u>GXY801421-3717</u></a>	Spica 1 	1 Pieces	1,860.62







## Sales Proposal

City of Manhattan Beach  
3621 Bell Ave.  
Manhattan Beach, CA 90266  
United States

Quote No. SP101908-6  
Customer No. C025243  
Document Date 09/13/2021  
Expiration Date 12/30/2021

Sales Representative Grant Bauer  
E-Mail GraBau@Kompan.com  
Phone No. 818-269-6096 / 800-426-9788  
Sales Support Kelsey Anderson  
E-Mail psc@Kompan.com

Project Name US165961 Polliwog Park

No.	Description	Qty Unit	Net Price
<a href="#">GXY801521-3717</a>	Spica 2 	1 Pieces	1,860.62
<a href="#">GXY801621-3717</a>	Spica 3 	1 Pieces	1,860.62
US-FRN-FLOWERS- IG	SET OF 4 FLOWERS IG 	1 Pieces	4,510.12
<a href="#">NRO911-1112</a>	Birds Nest Swing - Brown Pigmented 	1 Pieces	4,621.82
<a href="#">KSW928-CUSTOM</a>	KSW928 4 Bay, 4 Belt, 3 Infant, 1 open for ADA 20130993 	1 Pieces	7,629.41
US-ADA-SWING SEA5-12	ADA Swing Seat, 8' beam 5-12Y 	1 Pieces	878.75
<a href="#">PAR4054-0606</a>	Agora Steel Bench with Backrest - Light Blue	4 Pieces	6,762.82

## Sales Proposal

City of Manhattan Beach  
3621 Bell Ave.  
Manhattan Beach, CA 90266  
United States

Quote No. SP101908-6  
Customer No. C025243  
Document Date 09/13/2021  
Expiration Date 12/30/2021

Sales Representative Grant Bauer  
E-Mail GraBau@Kompan.com  
Phone No. 818-269-6096 / 800-426-9788  
Sales Support Kelsey Anderson  
E-Mail psc@Kompan.com

Project Name US165961 Polliwog Park

No.	Description	Qty Unit	Net Price
FREIGHT	Freight	1 Pieces	35,633.70

Please allow 24-26 weeks for product delivery upon order placement

Please read attached General Assumptions and Exclusion document for information on Install/Sitework.

This quote is for equipment only. No site work, surfacing or installation.

Description	Qty	Retail Price	Discount	Net Price
No. of Products	31			
Subtotal - Products		629,732.50	94,142.26	535,590.24
Subtotal - Freight		35,633.70		35,633.70
<b>Total USD Excl. Tax</b>				<b>571,223.94</b>
Estimated Tax rate				50,881.07
<b>Total USD Incl. Tax</b>				<b>622,105.01</b>

### Payment Terms

### Installation Site Address

City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, CA 90266  
Phone No. 3104661146

## **Exhibit B**

### **CITY INSURANCE REQUIREMENTS**

A. Minimum Scope and Limits of Insurance. Vendor shall procure and at all times during the term of this Contract carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Vendor is a limited liability company, the commercial general liability coverage shall be amended so that Vendor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Contract with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Vendor does not use any owned, non-owned or hired vehicles in the performance of services under this Contract, Vendor shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this **Exhibit B**.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Vendor has no employees while performing services under this Contract, workers' compensation policy is not required, but Vendor shall execute a declaration that it has no employees.

4) Professional Liability/Errors & Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this **Exhibit B** shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under Section 6 of the Contract.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Contract shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Vendor's insurance and shall not contribute with it.

E. Vendor's Waiver of Subrogation. The insurance policies required under this Contract shall not prohibit Vendor and Vendor's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Vendor hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Vendor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Vendor shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Vendor shall not cancel, reduce or otherwise modify the insurance policies required by this Contract during the term of this Contract. The commercial general and automobile liability policies required under this Contract shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under Contract is canceled or reduced in coverage or limits, Vendor shall, within two business days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Vendor does not maintain the policies of insurance required under this Contract in full force and effect during the term of this Contract, or in the event any of Vendor's policies do not comply with the requirements under **Exhibit B**, City may either immediately terminate this Contract or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Vendor's expense, the premium thereon. Vendor shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Vendor.

I. Evidence of Insurance. Prior to the performance of Services under this Contract, Vendor shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Contract. The endorsements are subject to City's approval. Vendor may provide complete, certified copies of all required insurance policies to City. Vendor shall maintain current endorsements on file with City's Risk Manager. Vendor shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Contract have been renewed or replaced with other policies providing at least the same coverage. Vendor shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Vendor shall not be construed as a limitation of Vendor's liability or as full performance of Vendor's duty to indemnify City under Section 10 of this Contract.

K. Broader Coverage/Higher Limits. If Vendor maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Vendor shall require each of its subcontractor that perform services under this Contract to maintain insurance coverage that meets all of the requirements of this **Exhibit B**.

