

# The Corporation of the Township of Huron-Kinloss



## BY-LAW

### 2021-39

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#### Being a By-law to Accept a Quote for the Supply, Installation of Play Equipment for Huronville Park and Langdon Park

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**WHEREAS** the Municipal Act S.O. 2001, c 25, Section 5(1), as amended, provides that the powers of a municipal corporation are to be exercised by its Council;

**AND WHEREAS** the Municipal Act S.O. 2001, c 25, Section 5(3), as amended, provides that a municipal power, including a municipality's capacity rights, powers and privileges under Section 9; shall be exercised by By-Law;

**AND WHEREAS** The Council for the Corporation of the Township of Huron-Kinloss deems it expedient to accept the quote of Play Power for the supply, installation, and safety surfacing of Play Equipment for Huronville Park and Langdon Park in the Township of Huron-Kinloss;

**NOW THEREFORE** the Council of The Corporation of the Township of Huron-Kinloss enacts as follows:

- 1.0 That The Corporation of the Township of Huron-Kinloss Council hereby accepts the quote of Play Power in the amount of \$38,796.00 plus H.S.T. for supply, installation, and safety surfacing of Play Equipment for Huronville Park and Langdon Park in the Township of Huron-Kinloss.
- 2.0 That the Mayor and Clerk are hereby authorized to sign on behalf of the Council for The Corporation of the Township of Huron-Kinloss, any contracts and other documents required to authorize such purchase to proceed, and to affix the corporate seal of the Township of Huron-Kinloss.
- 3.0 This By-law shall come into full force and effect upon final passage.
- 4.0 This By-law may be cited as the "Play Equipment Huronville and Langdon Park By-Law"

**READ a FIRST and SECOND TIME this 19<sup>th</sup> day of April, 2021.**

**READ a THIRD TIME and FINALLY PASSED this 19<sup>th</sup> day of April, 2021.**

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Mitch Twolan, Mayor

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Emily Dance, Clerk



# PlayPower LT Canada, Inc.

PO BOX 125, Paris, ON. N3L 3E7

Contact PlayPower at 800-265-9953

PlayPower LT Registration #'s R858629348RT / Ontario 858629348RT

Fax #: 519-442-8200

Quote # 165SH2021	Date: 3/30/2021	Sales Representative:
Customer: TOWN OF HURON KINLOSS	Customer PO#:	
Address: 2021 CAPITAL PROJECTS VIA LAS	Ship To:	
	Attn:	
(REMOVALS BY OTHERS)	Address:	
City: 0	Prov: Ontario	City: 0
Phone #:	Postal: 0	Province: 0
Fax#:		Postal: 0
Attn: MIKE FAIR		Phone #:
RE: 0		Fax #:

Qty:	Item Number	Description	Unit Price	Extended Price
1	E3 04356	HURONVILLE SITE	\$ 9,729.74	\$ 9,729.74
		WITH TWO BAY ARCH SWING	\$ -	
		2 BELT , 2 TOT SEATS, FOUR TIKES	\$ -	
		CLIMBER, TIRE CLIMB, REVOLUTION	\$ -	
		SPINNER, 8' BENCH AND 3 SEAT	\$ -	
		ACCESSIBLE TABLE	\$ -	
1	E3 97031	LONDON SITE WITH TWO BAY ARCH	\$ 2,935.27	\$ 2,935.27
		SWING , 2 BELT, 2 TOT SEATS	\$ -	
		3 SEAT ACCESSIBLE TABLE	\$ -	
			\$ -	
		INSTALL COST INCLUDES EWF	\$ -	
		FOR PLAY EQUIPMENT. EXCAV BY OTHERS	\$ -	
<b>Line Item Total:</b>				<b>\$ 12,665.01</b>

**\*TAXES SUBJECT TO CHANGE WHERE APPLICABLE**

Please Note:

Please provide site address when ordering. Line Locates are the responsibility of the customer

Projects delayed due to site readiness issues beyond our control may be subject to storage fees which are the responsibility of the customer.

**QUOTE ASSUMES TRUCK ACCESS TO PLAY AREA FOR CREW UNLESS OTHERWISE SPECIFIED.**

Installation Amount:

PBO Amount:

PBO Freight:

Freight:

Order Subtotal:

\*GST/HST Amount:

\*PST Amount:

\*QST Amount:

Order Total:

\$ 21,777.99
\$ -
\$ -
\$ 4,353.00
\$ 38,796.00
\$ 5,043.48
\$ -
\$ -
<b>\$ 43,839.48</b>

**This quote is good for 30 days.**

This Quote shall not become a binding contract until signed and delivered by both Customer and PlayPower LT Farmington Inc ("PPLT").

Sales Representative is not authorized to sign this Quote on behalf of PPLT or Customer, and signed Quotes cannot be accepted from Sales Representative.

**THIS QUOTE IS LIMITED TO AND GOVERNED BY THE TERMS CONTAINED HEREIN.** PPLT objects to any other terms proposed by Customer, in writing or otherwise, as material alterations, and all such proposed terms shall be void. Customer authorizes PPLT to ship the Equipment and agrees to pay PPLT the total amount specified. Shipping terms are FOB the place of shipment via common carrier designated by PPLT. Payment terms are Net-30 days from invoice date with approved credit and all charges are due and payable in full to: PlayPower LT Canada Inc., P.O. Box 15978, Station A, Toronto, Ontario M5W 1C1, unless notified otherwise by PPLT in writing. Customer agrees to pay all additional service charges for past due invoices. Customer must provide proper tax exemption certificates to PPLT, and shall promptly pay and discharge all otherwise applicable taxes, license fees, own expense levies and other impositions on the Equipment at its own expense.

**CUSTOMER HEREBY SUBMITS ITS OFFER TO PURCHASE THE EQUIPMENT ACCORDING TO THE TERMS STATED IN THIS QUOTE AND SUBJECT TO FINAL APPROVAL BY PPLT.**

Submitted By

Printed Name and Title

Date

THE FOREGOING QUOTE AND OFFER ARE HEREBY APPROVED AND ACCEPTED BY PPLT.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### ADDITIONAL TERMS & CONDITIONS OF SALE

1. Use & Maintenance. Customer agrees to regularly inspect and maintain the Equipment, and to provide, inspect and maintain appropriate safety surfacing under and around the Equipment, in accordance with PPLT's product literature and the most current Consumer Product Safety Commission Handbook for Public Playground Safety.

2. Default, Remedies & Delinquency Charges. Customer's failure to pay any invoice when due, or its failure to otherwise comply with the terms of this Quote, shall constitute a default under all unsatisfied invoices ("Event of Default"). Upon an Event of Default, PPLT shall have all remedies available to it at law or equity, including, without limitation, all remedies afforded a secured creditor under the Uniform Commercial Code. Customer agrees to assist and cooperate with PPLT to accomplish its filing and enforcement of mechanic's or other liens with respect to the Equipment or its location or its repossession of the Equipment and Customer expressly waives all rights to possess the Equipment after an Event of Default. All remedies are cumulative and not alternative, and no exercise by PPLT of a remedy will prohibit or waive the exercise of any other remedy. Customer shall pay all reasonable attorneys' fees plus any costs of collection incurred by PPLT in enforcing its rights hereunder. Subject to any limitations under law, Customer shall pay to PPLT as liquidated damages, and not as a penalty, an amount equal to 1.5% per month of any payment that is delinquent in such month and is not received by PPLT within ten (10) days after the date on which due.

3. Limitation of Warranty/ Indemnity. **PPLT MAKES NO EQUIPMENT WARRANTIES EXCEPT FOR THOSE STANDARD WARRANTIES ISSUED WITH THE EQUIPMENT, WHICH ARE INCORPORATED HEREIN BY THIS REFERENCE. PPLT SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND SAVE PPLT HARMLESS FROM ALL CLAIMS OF ANY KIND FOR DAMAGES OF ANY KIND ARISING OUT OF CUSTOMER'S ALTERATION OF THE EQUIPMENT, ITS FAILURE TO MAINTAIN THE EQUIPMENT, ITS FAILURE TO PROPERLY SUPERVISE EQUIPMENT USE, OR ITS FAILURE TO PROVIDE AND MAINTAIN APPROPRIATE TYPES AND DEPTHS OF SAFETY SURFACING BENEATH AND AROUND THE EQUIPMENT IN ACCORDANCE WITH PPLT'S INSTALLATION AND OWNER'S MANUALS AND THE MOST CURRENT CONSUMER PRODUCT SAFETY COMMISSION HANDBOOK FOR PUBLIC PLAYGROUND SAFETY.**

4. Restrictions. Until all amounts due hereunder are paid in full, Customer shall not: (i) permit the Equipment to be levied upon or attached under any legal process; (ii) transfer title to the Equipment or any of Customer's rights therein; or (iii) remove or permit the removal of the Equipment to any location not specified in this Quote.

5. Purchase Money Security Interest. Customer hereby grants, pledges and assigns to PPLT, and PPLT hereby reserves a purchase money security interest in, the Equipment in order to secure the payment and performance in full of all of Customer's obligations hereunder. Customer agrees that PPLT may file one or more financing statements, in order to allow it to perfect, acquire and maintain a superior security interest in the Equipment.

6. Choice of Law and Jurisdiction. All agreements between Customer and PPLT shall be interpreted, and the parties' obligations shall be governed, by the laws of the State of Missouri without reference to its choice of law provisions. Customer hereby consents to the personal jurisdiction of the state and federal courts located in the city and county of St. Louis, Missouri.

7. Title; Risk of Loss; Insurance. PPLT Retains full title to all Equipment until full payment is received by PPLT. Customer assumes all risk of loss or destruction of or damage to the Equipment by reason of theft, fire, water, or any other cause, and the occurrence of any such casualty shall not relieve the Customer from its obligations hereunder and under any invoices. Until all amounts due hereunder are paid in full, Customer shall insure the Equipment against all such losses and casualties.

8. Waiver; Invalidity. PPLT may waive a default hereunder, or under any invoice or other agreement between Customer and PPLT, or cure such a default at Customer's expense, but shall have no obligation to do either. No waiver shall be deemed to have taken place unless it is in writing, signed by PPLT. Any one waiver shall not constitute a waiver of other defaults or the same kind of default at another time, or a forfeiture of any rights provided to PPLT hereunder or under any invoice. The invalidity of any portion of this Quote shall not affect the force and effect of the remaining valid portions hereof.

9. Entire Agreement; Amendment; Binding Nature. This fully-executed Quote, as supplemented by Change Orders and invoices containing exact amounts of estimates provided herein, constitutes the complete and exclusive agreement between the parties. A Change Order is a written instrument signed by the Customer and PPLT stating their agreement as to any amendment in the terms of this Quote. Customer acknowledges that Change Orders may result in delays and additional costs. The parties agree that all Change Orders shall include appropriate adjustments in price and time frames relating to any requested amendments. Upon full execution, this Quote shall be binding upon and inure to the benefit of the parties and their successors and assigns.

10. Counterparts; Electronic Transmission. This Quote, any invoice, and any other agreement between the parties, may be executed in counterparts, each of which shall constitute an original. The facsimile or other electronic transmission of any signed original document, and retransmission of any signed facsimile or other electronic transmission, shall be the same as the transmission of an original. At the request of either party, the parties will confirm facsimile or other electronically transmitted signatures by signing an original document.

11. The customer is responsible for the off-loading of the equipment and an accurate inventory should be taken at the time and all missing or damaged parts should be noted to the Driver. You have 7 days to report any missing or damaged parts to your sales representative. Truck Driver will not unload equipment.