Mobile Modular Management Corporation
5700 Las Positas Road
Livermore, CA 94551
Phone: (925) 606-9000 Fax: (925) 453-3201
www.mobilemodular.com

Sale Agreement

Contract: 210044777.1
Date Printed: 01/09/2020

Customer & Site Information

Customer Information:
San Leandro USD
14735 Juniper St
San Leandro, CA 94579
Aaron Kerrigan
akerrigan@slusd.us
(510) 618-4440

Site Information:
San Leandro USD
1448 Williams Street
San Leandro Adult School
San Leandro, CA 94577
Aaron Kerrigan
akerrigan@slusd.us
(510) 618-4440

Customer PO/Reference:
Exp: //
By:

Mobile Modular Contact

Questions?

Please Contact: Carl Yeremian
Carl.Yeremian@mobilemodular.com
Direct Phone: (925) 453-3118
All other inquiries: (925) 606-9000

Product Information

	Qty	Purchase Price	Extended Purchase Price	Taxable
Classroom, 24x40 DSA (Item1001) *Right Hand Door Configuration. Open plan. Tackboard interior.*	1	**$47,830.00**	**$47,830.00**	Y
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	Qty	Charge Each	Total One Time	Taxable
Charges Upon Delivery:				
Classroom, 24x40 DSA (Item1001)				
Block and Level Building (B5) (PW) *Prevailing Wage Cert. Payroll*	1	**$4,410.00**	**$4,410.00**	N
Delivery Haulage Lowboy 12 wide	2	**$699.00**	**$1,398.00**	N
Delivery Haulage Permit 12 wide Lowboy	2	**$87.00**	**$174.00**	N
Delivery Haulage Pilot 12 wide Lowboy	2	**$255.00**	**$510.00**	N
Installation, Ramp Skirting (PW) *Prevailing Wage Cert. Payroll*	36	**$17.00**	**$612.00**	Y
			$7,104.00	
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			$7,104.00	
		Tax:	$9,446.19	
		Total Sales Price Including Tax:	**$284,116.19**	

Special Notes

Block/Level: Price assumes building is installed using Mobile Modular standard foundation. Mobile Modular assumes installation on the minimum foundation design criteria/tolerances. For DSA buildings, it is assumed building will be installed on the minimum amount of foundation lumber per the applicable DSA approved stockpile drawings and site will not exceed 4-1/2" out of level. Additional material and labor charges apply for installing buildings above minimum foundation design criteria, raising buildings to meet specific finish floor elevations, raising building level to adjacent buildings, landings, walkways, transitions, etc.
Flooring (Carpet): This building ships standard with used carpet in good condition. Carpet may have some discoloration or wear and a carpet bar will be utilized at modline seams. New carpet is available for an additional charge. If provided, new carpeting should receive a minimum of 72 hours of airing-out time, under well-ventilated conditions, prior to occupancy.
Delivery of Equipment:
Delivery of Equipment: Customer is responsible for selecting a suitable site and directing Mobile Modular on exact placement/orientation of the Equipment. Customer shall physically mark the site/pad to indicate corner locations for Equipment placement.
DSA Classrooms include: (2) 8040 marker boards, (1) fire extinguisher at each exit, empty back box with conduit stubbed to ceiling for future pull station & horn, skirting for perimeter of building only, standard factory ramp, and wood sill foundation for level site.
Fire Related Items: Unless noted, fire related items (alarms, sprinklers, smoke & heat detectors, and fire-rated walls, etc.) are not included.
General: Customer's site must be dry, compacted, level and accessible by normal truck delivery. Pricing does not include any clearing or grading of sites, obstruction removal, site or final building clean up , any asphalt transitions, dolly, crane, forklift, electrical or plumbing connections, window coverings, furniture, casework, appliances, doorstops, phone or data lines, gutters, downspouts or tie-in, temporary power, temporary fencing, traffic control, flagmen, soil and/or pull test, custom engineering, fees associated with inspections, city or county submittals and/or use permits, security screens, door bars and any item not specifically listed as being included.
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Special Terms & Important Contractual Information

- Prices will be adjusted for unknown circumstances, e.g. driver waiting time, pilot car requirements, special transport permits, difficult site, increase in fuel price, etc. Customer’s site must be dry, compacted, level and accessible by normal truck delivery. Unless noted, prices do not include permits, ramps, stairs, seismic foundation systems, temporary power, skirting, engineering, taxes or utilities or related installation of same.
- This transaction is subject to credit approval. Security deposit or payment in advance may be required. Security deposit will be applied against account balance at the end of the contract.
- Contract subject to terms & conditions attached and made a part of this agreement by reference herein. Customer acknowledges that he/she has received and read and affirms that he/she is duly authorized to execute and commit to this agreement for the above named customer.
- **Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon wages, or other special or certified wages.**

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Incorporation by Reference

The Sale Agreement is subject to the Supplemental Sale Terms and Conditions, which are hereby incorporated by reference in their entirety, as updated from time to time by Seller, in its sole discretion, and can be viewed in the Resources section of Seller's website at (https://www.mobilemodular.com/contractterms). The Buyer hereby affirms that he/she has read in its entirety and understands the Supplemental Lease Terms and Conditions.

Please sign below, and fax or email this document to the fax number shown above or the email address you received the document from.

The parties hereto, Mobile Modular Management Corporation, a California corporation, as seller (**"Seller"**) and buyer (**"Buyer"**, as described in the Sale Agreement in the section titled "Customer Information") hereby agree to this Sale Agreement and the terms and conditions set forth in the Sale Terms and Conditions, attached hereto as Attachment A, which are hereby incorporated by reference. The individual signing this Sale Agreement affirms that he/she is duly authorized to execute and commit to this Sale Agreement for the above named Sale.

SELLER: Mobile Modular Management Corporation	**BUYER:** San Leandro USD
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

ATTACHMENT A

SALE TERMS AND CONDITIONS

1. **SALE.** Seller sells to Buyer, and Buyer purchases from Seller, the equipment listed on the Sale Agreement hereto (**"Equipment"**) on the terms and conditions set forth herein. Each such Sale Agreement (**"Agreement"**), and the sale provisions on the Seller's website at (https://www.MobileModular.com/ContractTerms) (the **"Incorporated Provisions"**), to which are incorporated by reference into the Agreement, shall constitute a separate and independent sale (a **"Sale"**) of the Equipment listed in such Agreement under "Product Information". In the event of a conflict between this Agreement and Buyer's contract, purchase order or other document, the terms of this Agreement shall prevail.

2. **TIME PAYMENT; TITLE RETENTION.**

(a) **PURCHASE PRICE.** The aggregate amount of the purchase price (the **"Purchase Price"**) is set forth in the Sale Agreement. Unless otherwise specified in writing, Buyer agrees to pay Seller twenty five percent (25%) of the Purchase Price upon execution of the Agreement; sixty five percent (65%) no fewer than two days prior to the scheduled delivery date; and the remaining ten percent (10%) within thirty (30) days of substantial completion (substantial completion does not include punch list items). In addition to the Purchase Price, buyer shall pay such charges as are attributable to circumstances related to the delivery, drop-off and relocation of Equipment.

(b) **TITLE/RETENTION.** Title to the Equipment shall not pass to Buyer before the entire Purchase Price has been paid to Seller. Upon Seller's receipt of payment in full of the Purchase Price, title to the Equipment shall transfer to Buyer, free and clear of all encumbrances arising by or through Seller. All payments due from Buyer pursuant to the terms of the Sale Agreement shall be made without any abatement or set off of any kind, arising from any cause.

3. **CANCELLATION.** All sales are final and non-refundable upon delivery of the Equipment to Buyer's site location. Any requests to cancel or reschedule orders prior to delivery may or may not be accepted in Seller's sole discretion and must be agreed upon by Seller in writing. Without waiving any of its rights, Seller is entitled to recover its costs incurred and profits lost as a result of Buyer's cancellation or rescheduling of an order. A cancellation fee may be assessed against Buyer. In no event shall such fee exceed the full value of the Sale Agreement. If Buyer has made down payment(s) to Seller prior to cancellation and the cancellation fee is less than the amount(s) already paid, Seller shall deduct the amount of the cancellation fee from any refund that may be owed to Buyer. If down payment amount(s) already made are less than the cancellation fee, Seller shall apply the full down payment amount(s) to the payment of the cancellation fee and Buyer will pay the remaining cancellation fee balance within ten (10) business days after receiving written notice of the balance due. If no down payment has

been made by Buyer at the time of cancellation, Buyer shall pay to Seller the entire cancellation balance within ten (10) business days of receipt of written notice from Seller stating the cancellation fee balance that is due.

4. **DELIVERY AND PLACEMENT OF EQUIPMENT.** Seller agrees to deliver the Equipment to the site location listed on the Sale Agreement (the **"Site"**). Buyer warrants and represents that it has exercised due diligence and care in selecting a suitable site for the Equipment, shall clearly mark the site of placement and shall direct Seller on exact placement and orientation of the Equipment. Upon request from Buyer and for an additional fee, Seller will perform a site visit and make recommendations on placement as it relates to site accessibility and layout. Buyer further warrants that the Site will have (1) safe access free from encumbrances; (2) a level pad, which is hereby defined as having no greater than a 4-inch drop in 40 feet (length) and no greater than a 1-inch drop in 8 feet (width); and (3) adequate soil bearing pressure of not less than 1500 psf, except in the state of Florida, where the minimum soil bearing pressure is 2000 psf. Following delivery, Seller will remove all Seller-owned Equipment such as plywood, tools, etc. prior to or at the time of building acceptance. Buyer is responsible for all necessary permits, utility hookups, and Site preparation.

5. **INSPECTION AND ACCEPTANCE.** Following delivery and setup of the Equipment, Buyer shall inspect the Equipment within forty eight (48) hours of substantial completion and provide immediate written notice to Seller specifying defects, if any, which Buyer observes. If Buyer fails to provide such notice within four (4) days following substantial completion of the project, it shall be conclusively presumed between Buyer and Seller that Buyer has inspected the Equipment and that all Equipment is in conformance with the Agreement and has been accepted by Buyer.

6. **BUYER AGREEMENTS.** Buyer agrees that Seller may insert in the Agreement, the serial number and other identification data relating to the Equipment when ascertained by Seller.

7. **LOSS OR DAMAGE.** All risk of loss or damage to the Equipment shall transfer to Buyer upon delivery of the Equipment to the site location. Buyer agrees to indemnify and hold Seller harmless from any loss resulting from the theft, destruction or damage to the Equipment. The cost of any required repairs shall be borne by Buyer. Any loss of or damage to the Equipment shall not alleviate Buyer's obligation to pay Seller any remaining balance of the Purchase Price existing at the time of the loss.

8. **INSURANCE.** Upon delivery of the Equipment and until Buyer has paid for the Equipment in full, Buyer shall provide, maintain, and pay all premiums for property insurance covering the loss, theft, destruction, or damage to the Equipment in an amount not less than the full replacement value and will name Seller as loss payee of the proceeds, unless Buyer has paid Seller the entire purchase price in full prior to the scheduled delivery of the Equipment. This coverage will extend to all property of Seller located at the delivery site during the installation. Upon receipt of the proceeds of any insurance, Seller will refund to Buyer any amounts in excess of the balance due Seller by the Buyer in fulfilling the obligations specified herein. Notwithstanding the above, Buyer shall also provide, maintain, and pay all premiums for general liability insurance in the amount of $1,000,000.00 (one million dollars) and name Seller as an additional insured. All insurance shall be with a company having an A.M. Best rating of A- or better, and shall not be subject to cancellation without thirty (30) days prior written notice to Seller. Buyer shall deliver to Seller insurance certificates, or evidence of insurance proving the existence of policies meeting the above requirements, upon execution of the Agreement. Seller may require Buyer's insurance carrier to be licensed to do business in the state where the Equipment is being sold. Buyer's obligation to provide said insurance will cease once Equipment has been paid for in full and pursuant to Section 2.

9. **WAIVER AND INDEMNIFICATION.**

(a) Buyer hereby waives and releases all claims against Seller for (i) loss of or damage to all property, goods, wares and merchandise in, upon or about the Equipment and (ii) injuries to Buyer, Buyer's agents and third persons. Seller shall not be liable for any consequential, incidental, or special damages of any kind (including, but not limited to damages for loss of use or of profit by Buyer or any other party; or for any collateral damages), whether or not caused or continued by Seller's negligence or delay, which may result from or arise in connection with the manufacture, delivery, installation, checkout or use of the Equipment or in connection with the services rendered by Seller hereunder.

(b) Buyer shall indemnify and hold Seller (and its agents and employees) harmless from and against any and all claims, actions or proceedings and any and all damages, liabilities, losses, costs and expenses (including attorney fees) arising out of or in connection with the Sale Agreement, including all damages, liabilities, losses, costs and expenses arising from Seller's negligence. If the foregoing obligation is not enforceable against Buyer under applicable law, Buyer agrees to indemnify and hold Seller harmless from damages, liabilities, losses, costs and expenses to the maximum extent permitted by applicable law.

10. **TERMINATION FOLLOWING BREACH.** In the event (a) of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer voluntarily or involuntarily, under the provisions of the Bankruptcy Code of the United States, for the appointment of a receiver or trustee or any assignment for the benefit of creditors of Buyer, or (b) that Buyer fails to make timely payments, or perform any of its other obligations, under the Agreement, and such failure or default is not cured within ten (10) days after written notice of such failure or default is provided by Seller, the Agreement automatically shall be terminated in the case of any event described in clause (a) above and may be terminated by Seller in the case of any event described in clause (b) above and, upon such termination, full payment pursuant to the terms of the Agreement shall become immediately due and payable from Buyer. In the event of any such breach or termination, Seller shall have all rights provided by law and under the terms and conditions of the Agreement, including but not limited to: repossession and disposal of the Equipment (and, if any personal property shall remain located in the Equipment at such time, Buyer consents to Seller's possession and disposal or destruction of such personal property without notice or accounting to Buyer) and recovery of attorney's fees and other reasonable costs and expenses associated with any breach or termination (including any such disposal or destruction), shall be reimbursed by Buyer on demand of Seller.

11. **GOVERNING LAW.** Buyer and Seller agree that the Sale Agreement shall be governed in all respects by, and interpreted in accordance with the laws of, the State of California, without regard to its conflicts of laws provisions.

12. **JURISDICTION.**

(a) If the law of the State of Maryland or Virginia shall apply to the Agreement, it is agreed that the venue for a legal action relating to the Agreement shall be proper if brought in Alameda County, State of California. Subject to Section 9, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgment.

(b) If the law of any State other than Maryland shall apply to the Sale Agreement, the Federal District Courts located within the State of California shall have non-exclusive jurisdiction over any lawsuit brought by Buyer or Seller as a result of any dispute regarding matters arising in connection with the Agreement. Further, it is agreed that the venue for a legal action relating to the Agreement shall be proper if brought in Alameda County, State of California. Subject to Section 9, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgement.

13. **SELLER'S EXPENSES.** Buyer shall pay Seller all costs and expenses, including reasonable attorneys' fees, incurred by Seller in exercising any of the terms, conditions or provisions of the Agreement.

14. **LICENSE AND TRANSFER FEE(S).** If so listed on the Sale Agreement, the Purchase Price includes license and/or transfer fees. Buyer will be billed directly by the State for future annual license fees where applicable.

15. **COMPLIANCE WITH LAW.** Buyer assumes all responsibility for any and all licenses, clearances, permits and other certificates as may be required for Buyer's lawful operation, use, possession and occupancy of the Equipment. Buyer agrees to fully comply with all laws, rules, regulations and orders of all local, state and federal governmental authorities which in any way relate to the Equipment; and to indemnify and hold Seller harmless from any and all fines, forfeitures, seizures, penalties or other liabilities that may arise from any infringement or violation of any such law, rule, regulation or order.

16. **FEDERAL CONTRACTOR.** As a federal contractor, Seller's contracts are subject to the provisions of (i) Executive Order 11246, (41 CFR 60-1.4); (ii) section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a); and (iii) section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-300.5(a). **Seller shall abide by the requirements of 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability, and qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities, and qualified protected veterans.**

17. **MISCELLANEOUS.**

(a) **MODIFICATIONS AND AMENDMENTS.** Representations and warranties made by any person, including agents and representatives of Seller, which are inconsistent or conflict with the terms of the warranty contained in Section 1 of the Incorporated Provisions on the website (including but not limited to the liability of Seller as set forth above) shall not be binding upon Seller unless reduced to writing and approved by an officer of Seller. Notwithstanding the foregoing, from time to time, Buyer or Seller may request modifications to the scope of work hereunder, which at the sole option of the Seller may be accepted and thus alter the final price stipulated herein. These changes in scope will be deemed approved by Buyer when evidence of work performance is presented by Seller.

(b) **NO WAIVER.** Failure of Seller to enforce any term or condition of the Agreement shall not constitute waiver of any rights stipulated herein, nor shall it in any manner affect the rights of Seller to enforce any of the provisions stated herein. Waiver by Seller of any provision of the Agreement shall be valid only as provided in subsection (a) above and only with respect to the specific matter to which such waiver relates.

(c) If the law of the State of North Carolina shall apply to the Agreement, the Sale does not constitute a "construction contract" or otherwise relate to the improvement of real estate or the design, planning, construction, alteration, repair or maintenance of a building, structure or appurtenance.

18. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between Seller and Buyer regarding the subject matter hereof. If any part of the Sale Agreement is found to be invalid or illegal, Buyer and Seller agree that only the invalid or illegal portion of the Agreement will be eliminated.

Sale Terms and Conditions, Rev. 08/22/16