

**PURCHASE AGREEMENT BETWEEN THE
CITY OF SOUTH SAN FRANCISCO AND
BRODART CO.**

These terms and conditions govern the purchase of materials, supplies, and/or equipment, including any related installation, training, and/or minor services and repairs described in this Purchase Agreement ("Purchase Agreement") by Brodart Co. ("Vendor") for the City of South San Francisco ("City"). Vendor and City are collectively referred to in this Purchase Agreement as "the Parties." If the Vendor selects subcontractors to execute a portion of the terms of this Purchase Agreement, that subcontractor is an agent of the Vendor, and is hereby included by reference as "the Vendor."

1. Time of Performance. This Purchase Agreement shall commence effective June 1, 2023 and shall end by June 30, 2025. In the event that any of the terms of Exhibit A conflict with this Purchase Agreement, the terms of the Purchase Agreement shall prevail.
2. Description of Goods. Vendor shall perform everything required to be performed and shall provide and furnish to City with library materials as described in Exhibit A and shall complete delivery to the City of South San Francisco in strict accordance with the specifications as established by this Purchase Agreement and Exhibit(s), which specifications are incorporated herein and made part of this Purchase Agreement.
3. Description of Purchase. The City hereby agrees to pay Vendor for the Products and/or Services with a not to exceed amount. The total compensation for Products and/or Services performed under this Purchase Agreement is **not to exceed three hundred thousand dollars (\$300,000)**. The City shall pay Vendor invoices for Products and/or Services actually delivered in accordance with this Purchase Agreement. To be eligible for payment, Vendor invoices must itemize the Products and/or Services delivered and the corresponding prices in accordance with this Purchase Agreement. Payment of Vendor invoices does not constitute acceptance of Products and/or Services delivered. Prices of Products and/or Services delivered that are not in accordance with this Purchase Agreement are subject to adjustment. In no event will the prices of Products and/or Services delivered exceed that specified on this Purchase Agreement. Payments shall be subject to adjustment for defects in quality or failure of Vendor to meet terms and conditions herein and in Exhibit A. Such adjustments shall be equal to one hundred percent (100%) of City's costs to correct such defects or Vendor's failure to meet Purchase Agreement requirements.
4. Taxes. Vendor shall pay all applicable federal, state and local taxes, which may be chargeable against the delivery of the Products and/or Services listed herein.
5. General Warranties and Product Compliance. Vendor warrants that: (A) All Products and/or Services are as described on this Purchase Agreement conform to all drawings, samples, descriptions and specifications contained in Exhibit A; (B) All Products and/or Services delivered are new and of good merchantable quality, free from material defects of workmanship and fit for the purpose for which sold or provided; (C) Vendor has good title to all Products delivered and all Products delivered are free from liens and other encumbrances; and (D) Vendor's delivery and installation of the Products and/or Services will be in strict conformity with all applicable local, state, and federal laws. For purposes of this warranty, any Products or components not meeting the foregoing quality shall be deemed defective. The foregoing warranty provisions shall also be applicable to equipment or materials provided by a third-party entity to Vendor via this Purchase Agreement.

Vendor also expressly warrants and guarantees, as noted in Exhibit A, for Lifetime the Products furnished by it to City shall be free from breakage or defects of material and workmanship under normal use, service and maintenance from the date of acceptance of the City, and expressly agrees to repair or replace Products and/or Services or any part thereof which proves defective as a result of inferior or defective materials, equipment or workmanship. If within the period stated above, any repairs or replacements in connection with the Products and/or Services are, in the opinion of the City, rendered necessary as a result of the use of inferior or defective materials, equipment or workmanship, Vendor agrees on receipt of notice from City and without expense to the City, for freight, parts or labor, to properly repair, replace or correct any and all such defects therein. If Vendor, after such notice, fails to proceed promptly with the terms of this warranty and guarantee, the City may perform the work necessary to effectuate such corrections, repairs and replacements, and recover the cost thereof from Vendor.

6. Damage to City Facilities. Damage to City or public facilities or private property caused by the Vendor or by its subcontractors during delivery or installation shall be repaired and/or replaced in kind at no cost to the City.
7. Site Safety and Cleanup. The delivery and installation site shall be kept clean and free of hazards at all times during installation. After installation is completed at the site, Vendor shall clean the surrounding area to the condition prior to installation.
8. Final Inspection and Work Acceptance. Finished installation work and/or equipment shall be subject to final inspection and acceptance or rejection by the City.
9. Indemnity. To the fullest extent permitted by law, Vendor shall indemnify, defend (with counsel acceptable to the City), and hold harmless the City and its elected and appointed officers, officials, employees, agents, contractors and consultants (collectively, the "City Indemnitees") from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorneys' fees and costs of litigation) (collectively, "Liability") of every nature arising out of or in connection with the delivery and installation of the Products and/or Services described on this Purchase Agreement or Vendor's failure to comply with this Purchase Agreement, except such Liability caused by the gross negligence or willful misconduct of the City Indemnitees.
10. Insurance. Before beginning any installation work and continuing throughout the term of this Purchase Agreement, Vendor, at its sole cost and expense, furnish the City with certificates of insurance evidencing that Contractor has obtained and maintains insurance in the following amounts:

A. Workers' Compensation that satisfies the minimum statutory limits.

B. Commercial General Liability and Property Damage Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, TWO MILLION DOLLARS (\$2,000,000) annual aggregate, for bodily injury, property damage, products, completed operations and contractual liability coverage. The policy shall also include coverage for liability arising out of the use and operation of any City-owned or City-furnished equipment used or operated by the Vendor, its personnel, agents or subcontractors.

C. Comprehensive automobile insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury and property damage including coverage for owned and non-owned vehicles.

All insurance policies shall be written on an occurrence basis and shall name the City Indemnitees as additional insureds with any City insurance shall be secondary and in excess to Vendor's insurance. If the Vendor's insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible.

The City Risk Manager, in writing, may approve a variation in the foregoing insurance requirements. A valid and executed approval by Risk Manager must accompany this Purchase Agreement for a variation to be binding.

11. Prevailing Wage. Where applicable, the wages to be paid for a day's work to all classes of laborers, workmen, or mechanics on the work contemplated by this Purchase Agreement, shall be not less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where the work hereby contemplates to be performed as determined by the Director of Industrial Relations pursuant to the Director's authority under Labor Code Section 1770, *et seq.* Each laborer, worker or mechanic employed by Vendor or by any subcontractor shall receive the wages herein provided for. The Vendor shall pay two hundred dollars (\$200), or whatever amount may be set by Labor Code Section 1775, as may be amended, per day penalty for each worker paid less than prevailing rate of per diem wages. The difference between the prevailing rate of per diem wages and the wage paid to each worker shall be paid by the Vendor to each worker.

An error on the part of an awarding body does not relieve the Vendor from responsibility for payment of the prevailing rate of per diem wages and penalties pursuant to Labor Code Sections 1770-1775. The City will not recognize any claim for additional compensation because of the payment by the Vendor for any wage rate in excess of prevailing wage rate set forth. The possibility of wage increases is one of the elements to be considered by the Vendor.

A. Posting of Schedule of Prevailing Wage Rates and Deductions. If the schedule of prevailing wage rates is not attached hereto pursuant to Labor Code Section 1773.2, the Vendor shall post at appropriate conspicuous points at the site of the project a schedule showing all determined prevailing wage rates for the various classes of laborers and mechanics to be engaged in work on the project under this contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

B. Payroll Records. Each Vendor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Vendor in connection with the public work. Such records shall be certified and submitted weekly as required by Labor Code Section 1776.

12. Payment of Employment Taxes; Tax Withholding. Vendor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. To be exempt from tax withholding, Vendor must provide City with a valid California Franchise Tax Board form 590 ("Form 590"), as may be amended and such Form 590 shall be attached hereto and incorporated herein as Exhibit B. Unless Vendor provides City with a valid Form 590 or other valid, written evidence of an exemption or waiver from withholding, City may withhold California taxes from payments to Vendor as required by law. Vendor shall obtain, and maintain, on file for three (3) years after the termination of this Agreement, Form 590s (or other written evidence of exemptions or waivers) from all subcontractors. Vendor accepts sole responsibility for withholding taxes from any non-California resident subcontractor and shall submit written documentation of compliance with Vendor's withholding duty to City upon request.
13. Termination. In addition to all other legal and equitable rights of the City, the City may terminate this Purchase Agreement upon notice to the Vendor. If the City terminates this Purchase Agreement, the City will pay the Vendor for Products and/or Services accepted in accordance with this Purchase Agreement prior to the date of termination.
14. Prevailing Party. In the event that either party to this Purchase Agreement commences any legal action or proceeding (including but not limited to arbitration) to interpret the terms of this Purchase Agreement, the prevailing party in such a proceeding shall be entitled to recover its reasonable attorney's fees associated with that legal action or proceeding.
15. Notice. All notices and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (i) when received if personally delivered; (ii) when received if transmitted by telecopy, if received during normal business hours on a business day (or if not, the next business day after delivery) provided that such facsimile is legible and that at the time such facsimile is sent the sending Party receives written confirmation of receipt; (iii) if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and (iv) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows:

Vendor: Brodart Co.
500 Arch Street
Williamsport, PA 17701

City: City Clerk
City of South San Francisco
400 Grand Avenue
South San Francisco, CA 94080

16. Assignment, Governing Law. The Vendor may not assign any of Vendor's obligations under this Purchase Agreement without the City's prior written approval. This Purchase Agreement is governed by California law. The jurisdiction for any litigation arising from this Purchase Agreement shall be in the state of California, and shall be venued in the County of San Mateo.
17. Severability. If any portion of this Purchase Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Purchase Agreement.
18. Entire Agreement. This Agreement represents the entire and integrated agreement between the Parties. This Purchase Agreement may be modified or amended only by a subsequent written agreement signed by both Parties.

19. Execution in Counterpart. This Agreement may be executed in counterparts and/or by facsimile or other electronic means, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterpart, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.

CITY OF SOUTH SAN FRANCISCO
A Municipal Corporation

VENDOR

By: _____
City Manager

By: _____

Approved as to Form:

City Attorney

2729963.1

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EXHIBIT A
SCOPE OF SERVICES

Discount Schedule

- Trade Hardcover Editions - 45.5%
- Non-Trade Hardcover & Paperback Editions (short discount) - 12.0%
- Publisher's Library/Reinforced Editions - 23.0%
- Hardcover Reinforced - 23.0%
- BrodartBound (Prebound/Vendor-bound editions) - 23.0%
- Trade & Mass Market Paperbacks - 40.5%

Shipping & Fulfillment

- Provide multiple accounts based on service specifications to be determined by the Library.
- Provide same terms to be applied to all accounts.
- Vendor ability to accept electronically transmitted orders.
- Apply full discount to all titles for which the publisher provides a full discount to the vendor. (specify discount rates for different material types, as well as discounts for multiple copies of the same title)
- Shipment from one or more secondary distribution centers with same terms applied (land delivery is acceptable)
- Vendor ships from one warehouse located in Williamsport, PA
- Ability to place orders and receive invoices electronically.
- Ship complete orders per Library instruction, partial shipments accepted.
- Vendor ability to provide 98% fulfillment rate on orders placed for available books, including those with processing as described in the Scope of Services.
- Confirmation of status report available immediately upon electronic transmission of order.
- Provide email notification of publication changes - title, publication date, publisher, etc.
- Separation of invoices corresponding to single accounts (will not mix accounts on an invoice). Itemized list of services provided.
- Provide one original invoice and a packing list with shipment. Electronic invoices available upon request.
- Ability for Library to determine cancellation cycle with guaranteed return for credit of titles shipped after cancellation.
- Project Manager assigned to library account to oversee all aspects of customer care.
- A toll free phone number and email for customer service will be provided, including: invoice/billing inquiries, special orders/problems.

- Sales representative will be assigned to City account.
- Acceptance of returns, including but not limited to vendor error and defective material.
- Vendor pays return shipping on all accepted returns. Any item received damaged, defective or not as ordered (wrong title supplied, short shipment, etc) will be replaced or a credit will be issued. Freight costs for these returns will be paid by Vendor. All Vendor errors will be handled in this manner. Requests to return items for any other reason will be handled on an individual basis.
- Provide ongoing training for Vendor services offered. There are no additional charges for training.
- Ability to provide credits for processing and or cataloging mistakes associated with shelf-ready service.
- Shelf-ready materials will be delivered before the item release date to be placed in circulation on the release/street date.
- Provide a list of non-English language collections for book materials for which you supply complete library services (i.e. catalog of 5,000+ titles, full cataloging & collection development):
- Spanish

Collection Development

- Collection Builder Customized selection lists - No charge
- FASTips. Standing orders for popular titles - No charge
- TIPS, Silver Standard specialty selection lists - No charge
- TIPS, Diamond Customized selection lists
 - Up to 3 profiles for \$100 monthly
 - Up to 8 profiles for \$200 monthly
 - Up to 15 profiles for \$300 monthly
- Continuations Standing orders for serials - No charge
- Bibz. Online Collection Development and Ordering Tool - No charge
- Vendor will include online collection development software with unlimited logins (minimum of 15) for City needs at no extra cost.
- Ability to create a cart or a list of titles and for library staff to add notes to specific titles on the lists for internal library use (for example, to indicate title was requested by patron xyz).
- Ability to create shared carts
- All Vendor Collection Development services are free of charge with the exception of our Diamond Tips customized lists. Pricing for Diamond Tips has been included above.
- Vendor website provides electronic real-time web-based interface to its inventory and warehouse availability: including the ability to show quantities of items in stock; on order by warehouse location; pre-pub; out-of-stock; out of print and "apply direct" titles; on order or in other carts by other staff.
- Standing Order lists. Vendor's Standing Order services are offered for authors and series as well as true serials such as test prep and travel guides. These Standing Order services are offered free of charge to the City:

- FASTips® - Automatic Shipment Plan. Vendor offers standing orders for popular adult and youth fiction and nonfiction through FASTips (Frequent Author & Series TIPS). The profiling is very flexible and can accommodate unique needs. Most FASTips orders are based on author or series lists. Vendor offers the following lists to assist the library; however, these are not closed lists and the library can add authors or series as needed.
 - Adult Authors—African-American and Urban Literature
 - Adult Authors—Fiction
 - Adult Authors—Inspirational Adult Authors—Nonfiction
 - Adult Series—Fiction
 - Adult Series—Graphic Novels
 - Adult Series—Nonfiction and Biography
 - Adult Series—Travel Guides
 - Children's Authors
 - Children's Series—Chapter Books
 - Children's Series—Easy Readers
 - Children's Series—Fiction
 - Children's Series—Graphic Novels
 - Children's Series—Nonfiction and Biography
 - Children's Series—Picture Books and Board Books
 - Teen Authors
 - Teen Series—Fiction
 - Teen Series—Graphic Novels
 - Teen Series—Nonfiction and Biography

Cataloging

- Vendor offers two bundle cataloging and processing Service Options:
 - Starter: \$2.25 per book. Includes a full Starter MARC record with associated holdings tag and the following Vendor-supplied components: mylar jacket or label protector for books with no dust jacket, linked barcode label, spine label, property label, branch label, Collection labels (YA, Picture, Holiday, Graphic Novel, World Language, New), date stamp, genre label (choose up to 5 genres) and hub label and CD pocket for accompanying material \$2.25
 - Flex: \$3.40 per book. Includes a full Flex MARC record with associated holdings tag and the following Vendor-supplied components: mylar jacket or label protector for books with no dust jacket, linked barcode label, spine label, property label, branch label, Collection labels (YA, Picture, Holiday, Graphic Novel, World Language, New), date stamp, genre label (choose up to 5 genres) and hub label and CD pocket for accompanying material
- Provide full MARC 21, Level K or higher records for all items, including pre-pub materials, brief MARC not accepted, from OCLC.

- Ability to catalog materials to library specifications; including customized MARC 21, Level K, records with item level 949 fields.
- Ability to fulfill customized spine label cutting instructions in an electronic order that override standard spine label cutting instructions.
- Ability to assign Dewey call numbers according to Library specifications/ customizations
- Ability to overlay catalog full MARC 21, Level K, records over brief acquisition records in ILS
- Ability to send item records only

Processing

- Clear plastic mylar jackets. Only for hardcover books with dust covers. These will be taped not glued. A la carte price - \$0.65 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- RFID tag. Inside back cover, staggering, ¼" left from the spine. Vendor to apply tag. \$0.70 Vendor will supply, apply and program with barcode.
- Barcode (No duplicate barcodes on any materials.) Upper right-hand corner of fly leaf page. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book. Vendor will supply the barcode.
- Barcode protector. Over barcode, only for board books and library bond books. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Spine label. 1 x 1½ white label with a call number and / or cutter, on spine of dust cover or book, under adhesive plastic or jacket cover. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Spine label protector. Over spine label, only for items with no clear plastic jackets, only for board books, paperback, and library bond books. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Other exposed labels. Affix label protectors over all other exposed labels. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Date stamp. BLACK INK stamp the current date below barcode. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Ownership. Sticker applied based on which branch item belongs. Affix on top left of inside of fly leaf page about ¼" from spine. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Property label. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- Additional Spine Labels. Affixed to spine above the call number, and UNDER the spine label protector/clear plastic jacket. Items may be Young Adult, genre specific, picture books, holiday, graphic novel, world language, etc. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book. Choose up to 5 genre labels.
- NEW stickers. Centered on spine, above the spine label protector/clear plastic jacket/call#. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book
- HUB Label library name. Attach to any CDs or DVDs. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book

- Clear CD/DVD pocket. Use only if item not attached then, place on inside back cover, centered, if pertinent information is on inside back cover, move to back flyleaf or back of last page. Do not overlap with RFID tag. A la carte price - \$0.25 or Included in Bundled Pricing - Starter - \$2.25 /per book Flex - \$ 3.40 /per book

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EXHIBIT B
INSURANCE CERTIFICATES

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