



1200 North 7th St.
 Harrisburg PA 17102
 United States
 Telephone: 717-720-2702
 Fax: 717-720-3917

Vendor: 0000082999
 PARAMOUNT INNOVATING FITNESS
 6450 E BANDINI BLVD
 LOS ANGELES CA 90040

Purchase Order

Dispatch via Print

Purchase Order PHEAA-0000072690	Date 11/22/2011	Revision	Page 1
Payment Terms Net 30 Tre	Freight Terms FOB Destination, Frt Prepaid		Ship Via Internal
Buyer Paulette Frantz	Phone 717 720 2307		Currency USD

Ship To: WESTPORT
 Westport Office Park
 4600 Westport Drive
 Suite 109
 Mechanicsburg PA 17050
 United States

Bill To: PHEAA, Accounts Payable
 PO BOX 2254
 acctspay@pheaa.org
 Harrisburg PA 17105-2254
 United States
 Fax: 717/720-3917

Tax Exempt?Y **Tax Exempt ID:**23-1693362 **Vendor TIN:**

Line-Sch	Item/Description	Mfg ID	Quantity	UOM	PO Price	Extended Amt	Due Date
1-1	Flat-Incline-Dcline Bench		1.00	EA	610.00	610.00	11/30/2011
Schedule Total						<u>610.00</u>	
Item Total						<u>610.00</u>	
2-1	Two-tier; 6-pair Dumbbell Rack		1.00	EA	715.00	715.00	11/30/2011
Schedule Total						<u>715.00</u>	
Item Total						<u>715.00</u>	
3-1	Umax-U2 Dumbbell		1.00	EA	735.00	735.00	11/30/2011
Schedule Total						<u>735.00</u>	
Item Total						<u>735.00</u>	
4-1	Recumbent Bike		1.00	EA	2,795.00	2,795.00	11/30/2011
Schedule Total						<u>2,795.00</u>	
Item Total						<u>2,795.00</u>	
5-1	Elliptical Trainer		3.00	EA	4,195.00	12,585.00	11/30/2011
Schedule Total						<u>12,585.00</u>	
Item Total						<u>12,585.00</u>	
6-1	Treadmill		3.00	EA	5,195.00	15,585.00	11/30/2011
Schedule Total						<u>15,585.00</u>	
Item Total						<u>15,585.00</u>	

All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.

Authorized Signature



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Net 30 Tre	FOB Destination, Frt Prepaid		Internal
Buyer	Phone		Currency
Paulette Frantz	717 720 2307		USD

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Tax Exempt?Y **Tax Exempt ID:**23-1693362 **Vendor TIN:**

Pennsylvania Higher Education Assistance Agency, a public corporation and governmental instrumentality organized under the laws of the Commonwealth of Pennsylvania, t/d/b/a American Education Services ("PHEAA")

Vendor agrees to comply with Nondiscrimination Clause and attached Terms and Conditions.

F.O.B. Destination plus freight.

Please contact Diana Dumond to schedule deliver as far in advance as possible. She is the project manager for this order and delivery. 717-720-2130

Total PO Amount 33,025.00

All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.

Authorized Signature

**Pennsylvania Higher Education Assistance Agency,
a public corporation and governmental instrumentality
organized under the laws of the Commonwealth of Pennsylvania,
t/d/b/a American Education Services (“PHEAA” or “AES”)**

GENERAL TERMS AND CONDITIONS

1. Definitions.

a. Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.

b. Consent means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Agreement.

c. Contractor means the individual or entity that has entered into this Agreement with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than five percent interest.

d. Financial interest means:

(1) ownership of more than five percent in any business; or

(2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

e. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

2. Contractor Standards. The Contractor shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

3. Contractor Responsibilities.

a. Contractor understands and agrees that prior to placing any of its employees at any PHEAA location, the Contractor shall undertake investigatory background inquiries on such individuals, including but not limited to obtaining and examining criminal history and motor vehicle records. Contractor agrees to provide the results of any inquiries to PHEAA upon PHEAA's request.

b. Contractor shall be responsible for ensuring that all of Contractor's staff working on PHEAA's premises are provided with, understand and adhere to, PHEAA's policies, procedures and practices, including those involving workplace safety and security.

4. Deliveries. All persons making deliveries to PHEAA, will attest that the delivery was not tampered with, nor compromised, while in their possession. As applicable, skid deliveries to PHEAA must be shrink-wrapped.

5. Confidentiality. The Contractor shall not disclose to others any confidential information gained by virtue of this Agreement. Any breach of confidentiality will result in immediate termination of this Agreement. The Contractor is responsible for any additional costs to PHEAA as a direct result of termination of this Agreement.

6. Ethics.

a. The Contractor shall not, in connection with this or any other agreement with PHEAA, directly or indirectly, offer, confer or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of PHEAA. Nor shall the Contractor, directly or indirectly, offer, give or agree to promise to give to, any person, any gratuity for the benefit of or at the direction or request of any officer or employee of PHEAA. Except with the consent of PHEAA, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Agreement.

b. Except with the consent of PHEAA, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.

c. The Contractor, by execution of this Agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he or she has not violated any of these provisions. The Contractor upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify PHEAA in writing.

7. Debarment.

a. Contractor certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government.

b. If Contractor enters into any subcontracts under this Agreement with subcontractors who are currently suspended or debarred by the Commonwealth or federal government or who become suspended or debarred by the Commonwealth or federal government during the term of this Agreement or any extensions or renewals thereof, PHEAA shall have the right to require the contractor to terminate such subcontracts.

8. OFAC Checks.

a. Contractor represents that neither Contractor, nor any of its subsidiaries, affiliates, directors, officers, agents, employees, or subcontractors, are:

(1) individuals or entities that are listed in the annex to, or are otherwise subject to the prohibitions contained in, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “Executive Order”) or the Office of Foreign Asset Control (“OFAC”) regulations;

(2) individual or entity with whom Customer is prohibited from dealing or otherwise engaging in business under any U.S. law, regulation, executive order and/or lists published by OFAC (including those executive orders and lists published by OFAC);

- (3) individual or entity that is named on the most current list of "Specially Designated Nationals and Blocked Persons" published by OFAC on its official website or any replacement website or other replacement official publication of such list; or
- (4) an individual or entity with which any financial institution is prohibited from dealing or otherwise engaging in any transaction under any laws or regulations related to terrorism or money laundering.

b. Ongoing Obligation. If at any time during the term of this Agreement, any of the representations contained in this Section are no longer true, Contractor will immediately notify Customer (PHEAA), and Customer shall have the immediate right to terminate this Agreement, without further obligation or penalty. Contractor shall conduct periodic reviews, no less frequently than quarterly, of the lists mentioned above.

9. Business and Financial Records. Upon reasonable prior written notice and during normal business hours, PHEAA, its Inspector General or other designated auditors may audit the Contractor's procedures with respect to its customer's data.

10. Qualifications of Offerors. PHEAA may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the work/furnish the item(s) and the Offeror shall furnish to PHEAA all such information and data for this purpose as may be requested. PHEAA reserves the right to inspect the Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. PHEAA further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy PHEAA that such Offeror is properly qualified to carry out the obligations of the Agreement and to complete the work/furnish the item(s) contemplated therein.

11. Indemnification. Contractor shall indemnify and hold PHEAA harmless from any claims asserted due to the activities of Contractor, its employees or agents in the performance of the activities required under this agreement.

12. Applicable Law and Courts. The Contractor agrees to comply with all applicable laws and regulations of the Commonwealth of Pennsylvania in carrying out this Agreement.

13. Independent Contractor. The Contractor, its agents, and employees, shall act in an independent capacity and shall not act or be deemed to act as officers, employees, or agents of PHEAA.

14. Non-Discrimination. Contractor agrees to comply with the non-discrimination clause attached as Exhibit I.

15. Mandatory Use of Terms and Conditions. PHEAA reserves the right to decide, on a case-by-case basis, at its sole discretion, whether or not to modify or add to these General Terms and Conditions.

16. Clarification of Terms. If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should contact the Enterprise Supply Management Office.

17. Rights and Remedies. For violation of any provisions, PHEAA may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those PHEAA may have under law, statute, regulation, or otherwise.

18. Force Majeure: Neither Party shall be responsible for delays or failures in performance resulting from acts beyond the control of the non-performing Party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lock-out, riot, war, act of terrorism, freight embargo, failure of public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by either Party arises out of causes beyond the Party's control and without the fault or negligence of that Party, then that Party shall not be liable for damages as a result of such delay or failure.

19. Invoices. Invoices for goods/services ordered, delivered, and accepted shall be submitted by the Contractor direct to the payment address shown on the purchase order/Agreement and to the attention of the Financial Management Division. Detail must be submitted with the invoice. A Document Number (Purchase Order Number or Agreement (ME#) Number) must be referenced on all invoices.

20. Payment Terms. Any payment terms requiring payment in less than thirty (30) days will be regarded as requiring payment thirty (30) days after receipt of the invoice or delivery, whichever occurs last. Interest penalties for late payments shall be computed at a rate determined by the Secretary of Revenue, Commonwealth of Pennsylvania. Payment should not be construed by the awarded Contractor as acceptance of equipment, goods, materials or supplies.

21. Testing and Inspection. PHEAA reserves the right to conduct any test/inspection after payment it may deem advisable within a reasonable time after delivery, and to reject the equipment, goods, materials or supplies if such post-payment testing or inspection discloses a defect or a failure to meet specifications.

22. Assignment of Agreement. An Agreement and the rights and obligations hereunder may not be assigned in whole or in part by the Contractor without the prior written consent of PHEAA, and any purported assignment without such written consent shall be void and of no effect.

23. Changes to the Agreement. PHEAA may order changes within the general scope of the Agreement at any time by written notice to the Contractor. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give PHEAA a credit for any savings. Said compensation shall be determined by mutual agreement between the parties in writing.

24. Default. In case of failure to deliver goods/services in accordance with the Agreement terms and conditions, PHEAA, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative cost. This remedy shall be in addition to any other remedies which PHEAA may have.

25. Cancellation of Agreement. PHEAA reserves the right to cancel and terminate any resulting Agreement, in part or in whole, without penalty, upon thirty (30) days written notice to the Contractor. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

26. Subcontracts. No portion of the work shall be subcontracted without prior written consent of PHEAA. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish PHEAA the names, qualifications, and experience of their proposed subcontractor(s), as well as a certification that such subcontractor has met applicable OFAC requirements, as required in Paragraph 8 above. The Contractor shall, however, remain fully liable and responsible for the work/service to be performed by his subcontractor(s) and shall assure compliance with all requirements of the Agreement.

27. Compliance with Regulations, Rules, and Applicable Laws. The Contractor must at all times observe and comply with applicable federal, state, or local laws, ordinances, decrees and regulations existing at the time of or enacted subsequent to the execution of any Agreement.

28. Right to Know Act The Contractor acknowledges, understands and agrees that this entire Agreement and any information contained herein may be subject to disclosure by PHEAA as a "public record" as required by Pennsylvania's Right to Know Law (hereinafter "the Act").

Moreover, Contractor agrees and understands that if this contract involves: (1) the sale of any property of any kind or description (real, personal or mixed); or (2) personal services, and the consideration involved herein is \$5,000.00 or more, then Section 1701(a) of the Act requires PHEAA to submit a copy of this Agreement to the Pennsylvania Department of Treasury within ten (10) days after the contract is fully executed. Thereafter, the Pennsylvania Department of Treasury shall make this Agreement available for public inspection by either posting a copy of the entire contract or a contract summary on the Treasury Department's publicly-accessible internet website.

To the extent Contractor believes this Agreement contains any "trade secret" or "confidential proprietary information" (as those terms are defined in the Act), Contractor may submit to PHEAA a separate written statement, signed by a representative of the Contractor, identifying which provision(s) of the Agreement contain "trade secret" or "confidential proprietary information." Said statement shall be submitted to PHEAA on the same day Contractor signs this Agreement. Contractor agrees and understands that, by failing to submit a separate written statement signed by its representative indicating that the Agreement contains "trade secret" or "confidential proprietary information," Contractor may be waiving important rights under the Act.

Contractor accordingly waives and releases PHEAA, its agents, officers, representatives, board members and employees, from any and all actions at law or in equity for compliance with the Act. Contractor further acknowledges, understands and agrees that any such disclosure made by PHEAA under the Act does not constitute breach of any confidentiality provision otherwise stated in this Agreement.

29. Precedence of Terms. These General Terms and Conditions shall apply in all instances. In the event that there is a conflict between any of the General Terms and Conditions and any Special Terms and Conditions, if any, or where applicable, the Special Terms and Conditions shall apply. If there is a conflict between PHEAA's General/Special Terms and Conditions and terms and conditions which are part of an Agreement submitted by a contractor, PHEAA's General/Special Terms and Conditions shall prevail.

30. Offeror's Liability Insurance. The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of or result from the Contractor's operations during the contract period. PHEAA reserves the right to request and review satisfactory proof of Contractor's liability coverage which shall cover any acts by the Contractor and/or his agents.

- Automobile Liability Insurance in an amount equal to \$1,000,000 per occurrence; \$2,000,000 aggregate
- Comprehensive General Liability Insurance in an amount equal to \$1,000,000 per occurrence; \$2,000,000 aggregate
- Umbrella Liability Insurance in an amount equal to \$5,000,000
- Workman's Compensation Insurance in an amount equal to "statutory limits" as required by the Commonwealth of Pennsylvania
- Errors and Omissions Insurance in an amount equal to \$1,000,000 per occurrence; \$2,000,000 aggregate

For Service Only Contracts: Before commencing work under the contract, the Contractor must furnish PHEAA with copies of the insurance policies or certificates of insurance verifying the liability coverage. The insurance policy must specifically provide that PHEAA is named as an insured and a beneficiary under the policy (with the exception of Workman's Compensation) and that PHEAA may, either jointly with the Contractor, or separately from the Contractor, seek and obtain reimbursement for losses covered by the policy.

Company hereby expressly agrees to indemnify and hold harmless PHEAA against any and all third party claims arising from gross negligence, willful misconduct, or fraud committed by Contractor during the course of providing any services to PHEAA pursuant to the terms of this Agreement, as determined by any court of competent jurisdiction or other judicial body, including reimbursement of all attorneys' fees and costs related to such action.

31. Expenses. If applicable, expenses will be reimbursed at the rates currently in effect for employees of PHEAA. Rates are available by contacting the Enterprise Supply Management Office at (717) 720-2702.

32. Tax Exemption. PHEAA is an instrumentality of the Commonwealth of PA and is exempt from local and/or state and local sales and use tax. Our Tax Identification Number is 23-1693362.

**Pennsylvania Higher Education Assistance Agency,
a public corporation and governmental instrumentality organized
under the laws of the Commonwealth of Pennsylvania,
t/d/b/a American Education Services ("AES")**

NONDISCRIMINATION CLAUSE

EXHIBIT I

During the term of this contract, Contractor agrees as follows:

(1) Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, handicap, ancestry, national origin, age or sex.

Contractor shall take affirmative action to insure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, handicap, ancestry, national origin, age or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

(2) During the term of this contract, the Contractor agrees as follows:

a) Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act, 28 C.F.R. 35.101 et seq.*, the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

b) The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of paragraph a) above.

(3) Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age or sex.

(4) Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contractor understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.

(5) It shall be no defense to a finding of non-compliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.

(6) Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.

(7) Contractor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's noncompliance with the nondiscrimination clause of this contract or with any such laws, this contract may be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and other sanctions may be imposed and remedies invoked.

(8) Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency.

(9) Contractor shall actively recruit minority and women subcontractors or subcontractors with substantial minority representation among their employees.

(10) Contractor shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each Subcontractor.

(11) Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

Rev. 02/02/07 (t/d/b/a AES)